

TAAAR



June 14, 2002
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RILEY C. DARNELL
Secretary of State

Division of Publications
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Department of State, Authorization No. 305084, 385 copies, June 2002. This public document was promulgated at a cost of \$ 3.30 per copy.

PREFACE

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

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

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

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

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

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

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

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

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

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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 July 2002 is 9.77 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 5.77 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 May 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	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-01	May 6, 2002	1200 Health Bureau of Health Services Administration Division of General Environmental Health	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-1-5 Organized Camps</i> 1200-1-5-.01 Definitions 1200-1-5-.02 Plans and Specifications. 1200-1-5-.03 Permitting and Inspection 1200-1-5-.04 Facilities and Grounds 1200-1-5-.05 Water Supply, Sewage and Solid Waste Disposal 1200-1-5-.06 General Provisions	Nick Aemisegger TN Twr, 26th Fl 312 8th Ave, N Nashville, TN 37247-0120 (615) 741-1611	July 20, 2002
05-02	May 6, 2002	0480 Board of Dispensing Opticians	Rulemaking Hearing Rules	Amendments	<i>Chapter 0480-1 General Rules Governing Dispensing Opticians</i> 0480-1-.01 Definitions 0480-1-.09 Renewal of License 0480-1-.12 Continuing Education (CE)	Glen Watson OGC 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	July 20, 2002
05-03	May 7, 2002	0180 Financial Institutions Bank Division	Proposed Rules	New Rules	<i>Chapter 0180-31 Loan Production Offices</i> 0180-31-.01 Scope. 0180-31-.02 Definitions. 0180-31-.03 Establishment of Loan Production Office.	Tina G. Miller Financial Institutions 27th Fl SnodgrassTN Twr 312 8th Ave N 615/532-1030	Sept 27, 2002
05-05	May 7, 2002	1340 Safety Driver License Issuance	Proposed Rules	Amendments	1340-1-13-.12 Proof of Date of Birth, Residency and Identification.	Wanda Adams Driver License Issuance Safety 1150 Foster Ave Nashville, TN 37249-1000 615.251.5310	Sept 27, 2002
05-06	May 29, 2002	0250 Children's Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 0250-5-1 Introduction</i> 0250-5-1-.01 Grievances. 0250-5-1-.02 Agency Rule-making. 0250-5-1-.03 Legal Base <i>Chapter 0250-5-2 Definitions</i> 0250-5-2-.01 Definitions <i>Chapter 0250-5-3 Fair Hearing Requests</i> 0250-5-3-.01 Right to Appeal 0250-5-3-.02 Information Regarding Right to Appeal 0250-5-3-.03 Time Limit for Filing an Appeal <i>Chapter 0250-5-4 Notice of the Hearing</i> 0250-5-4-.01 Notice.	Stacy L. Miller DCS Central Legal Office TN Twr 312 8th Ave N., 25th Fl Nashville TN 37243 (615) 253-2161	Aug 12, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-06, cont.					0250-5-4-.02 Pre-hearing Conference. 0250-5-4-.03 Subpoenas for Evidence and Witnesses <i>Chapter 0250-5-5</i> <i>The Administrative Judge/Hearing Officer</i> 0250-5-5-.01 Role 0250-5-5-.02 Authority 0250-5-5-.03 Reserved 0250-5-5-.04 Initial Order <i>Chapter 0250-5-6</i> <i>Conduct of the Hearing</i> 0250-5-6-.01 Rules of Evidence. 0250-5-6-.02 Examination of Case File. 0250-5-6-.03 Ex Parte <i>Chapter 0250-5-7</i> <i>The Hearing Record</i> 0250-5-7-.01 Time Frames 0250-5-7-.02 Contents of Record 0250-5-7-.03 Record of Oral Proceedings 0250-5-7-.04 Basis for Agency Action <i>Chapter 0250-5-8</i> <i>The Final Order</i> 0250-5-8-.01 Time Limitation 0250-5-8-.02 Consideration of the Entire Record 0250-5-8-.03 The Final Order 0250-5-8-.04 Public Access to Final Order <i>Chapter 0250-5-9</i> <i>Reconsideration</i> 0250-5-9-.01 Notice of Right to a Petition for Reconsideration and/or Appeal of the Initial Order 0250-5-9-.02 Notice of Right to a Petition for Reconsideration of a Final Order 0250-5-9-.03 Effect on the Final Order 0250-5-9-.04 Grounds for Reconsideration <i>Chapter 0250-5-10</i> <i>Judicial Review</i> 0250-5-10-.01 Notice of Entitlement to Judicial Review 0250-5-10-.02 Method for Filing <i>Chapter 0250-5-13</i> <i>Proceedings Affecting Foster Family Care</i> 0250-5-13-.01 Right To Appeal 0250-5-13-.02 Notice		

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-06, cont.					0250-5-13-.03 Time Limit for Filing an Appeal 0250-5-13-.04 Waiver of Right to Appeal and Withdrawal or Dismissal of Hearing Requests 0250-5-13-.05 Pre-Hearing Conference 0250-5-13-.06 Hearing Procedures 0250-5-13-.07 Time Limitation 0250-5-13-.08 Basis of Decision		
05-07	May 8, 2002	0400 Environment and Conservation Hazardous Waste Management	Rulemaking Hearing Rules	Amendments	Chapter 1200-1-11 (Equivalent Federal Regs. Citation) Hazardous Waste Management Revision "V" 1200-1-11-.01 Hazardous Waste Management System: 1200-1-11-.02 Identification And Listing Of Hazardous Waste [40 Cfr 261] 1200-1-11-.03 Notification Requirements And Standards Applicable To Generators Of Hazardous Wastes [40 Cfr 262] 1200-1-11-.04 Permit Requirements And Standards Applicable To Transporters Of Hazardous Waste [40 Cfr 263] 1200-1-11-.05 Interim Status Standards For Owners And Operators Of Existing Hazardous Waste Treatment, Storage, And Disposal Facilities [40 Cfr 265] 1200-1-11-.06 Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities [40 Cfr 264] 1200-1-11-.07 Permitting Of Hazardous Waste Treatment, Storage, And Disposal Facilities [40 Cfr 270] 1200-1-11-.08 Fee System For Transporters, Storers, Treaters, Disposers, And Certain Generators Of Hazardous Wastes And For Certain Used Oil Facilities Or Transporters 1200-1-11-.09 Standards For The Management Of Specific Hazardous Wastes And Specific Types Of Hazardous Waste Management Facilities	Gerald Ingram Solid Waste Management 5th Fl L&C Twr 401 Church St Nashville TN 37243-1535	

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-07, cont.					<p>[40 Cfr 266] 1200-1-11-.10 Land Disposal Restrictions [40 Cfr 268] 1200-1-11-.11 Standards For The Management Of Used Oil [40 Cfr 279] 1200-1-11-.12 Standards For Universal Waste Management [40 Cfr 273] Facilities [40 Cfr 264]</p>		
05-10	May 15, 2002	1660 Wildlife Resources Commission	Notice of Withdrawal of Rule		1660-1-8-.05 Originally filed March 5, 2002		
05-11	May 16, 2002	Government Operations Committee 1660 Wildlife Resources Commission	Notice of Stay		Both originally filed March 5, 2002; effective May 19, 2002. 1660-1-8-.05 Permit Applications and Drawings (see 05-10 withdrawal) 1660-1-2-.02 Migratory Bird Hunting – Originally filed March 5, 2002 New effective date: July 18, 2002	Fred Standbrook WMB 741-3074	
05-21	May 22, 2002	G.O.C. for 1660 Wildlife Resources	Notice of Withdrawal of Stay		1660-1-2-.02 Migratory Bird Hunting Originally filed March 5, 2002 effective May 19, 2002. New effective date: July 18, 2002 (Stay 5-11) Latest effective date: May 25, 2002	Fred Standbrook GOC WMB 741-3074	May 25, 2002
05-24	May 29, 2002	0250 Children's Services	Rulemaking Hearing Rules	New Rules	<p><i>Chapter 0250-07-06 Community Services Agency Rules And Regulations</i> 0250-07-06-.01 General Provisions 0250-07-06-.02 Definitions 0250-07-06-.03 Plan of Operation 0250-07-06-.04 Amendments, Revisions and Waivers of the Plan of Operation 0250-07-06-.05 Administrative and Financial</p>	Sarah Anderson, Esq. DCS Central Legal Office TN Twr 312 8th Ave N., 25th Fl Nashville TN 37243 (615) 253-2161	Aug 12, 2002
05-32	May 15, 2002	0780 Commerce and Insurance Division of Securities	Rulemaking Hearing Rules	Amendments New Rules	<p><i>Chapter 0780-4-1 General Administration</i> 0780-4-1-.03 Definitions 0780-4-1-.04 Administration of the Act <i>Chapter 0780-4-2 Securities Registration and Exemptions</i> 0780-4-2-.13 Notice Filings for Exempt</p>	Maliaka Bass EssamelDin 312 8th Ave N 25th Fl Snodgrass TN Tower Nashville, TN 37243 (615) 741-2199	July 29, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-32, cont.				Amendments	Employee Plans 0780-4-2-.14 Sold to Accredited Investors <i>Chapter 0780-4-2</i> <i>Securities Registration and Exemptions</i> 0780-4-2-.06 Standards of Fairness and Reasonableness 0780-4-2-.12 Notice Filings for Covered Securities <i>Chapter 0780-4-3</i> <i>Industry Regulation</i> 0780-4-3-.01 Registration 0780-4-3-.02 Post Registration 0780-4-3-.03 Oil and Gas Issuer-Dealers 0780-4-3-.04 Persons Deemed Not to be Broker-Dealers 0780-4-3-.05 Exemptions from Investment Adviser Registration 0780-4-3-.06 Investment Adviser Notice Filings 0780-4-3-.11 Persons Deemed Not to be "Agents" 0780-4-4 <i>Industry Regulation</i>		
				Repeal			

GOVERNMENT OPERATIONS COMMITTEES
CORRECTION FOR THE MAY G.O.C. ANNOUNCEMENT

New chapter 0520-12-2 Rules of Procedure for Hearing Contested Cases was not included with the items listed for rulefiling 04-29 (0520 - Education).

GOVERNMENT OPERATIONS COMMITTEES
WILDLIFE RESOURCES AGENCY - 1660

NOTICE OF STAY OF EFFECTIVE DATE

May 17, 2002

MEMORANDUM

TO: Richard Arnold
Director of Publications

FROM: Fred Standbrook, Legislative Attorney

SUBJECT: Stay of Effective Date of Certain Rules

Please be advised that pursuant to Tennessee Code Annotated, Section 4-5-215, the Senate Government Operations Committee voted to stay of the effectiveness of the following rulemaking hearing rules amendments filed by the Tennessee Wildlife Resources Agency:

Paragraph (3) of Rule 1660-1-8-.05 Permit Applications and Drawings; and

Rule 1660-1-2-.02 – Migratory Bird Hunting

These rulemaking hearing rules amendments were to become effective May 19, 2002. The Committees voted to stay the rules for sixty (60) days.

Thank you for your attention to this matter.

**GOVERNMENT OPERATIONS COMMITTEES
WILDLIFE RESOURCES AGENCY - 1660**

WITHDRAWAL OF STAY OF EFFECTIVE DATE

May 22, 2002

MEMORANDUM

TO: Richard Arnold
Director of Publications

FROM: Fred Standbrook, Legislative Attorney

SUBJECT: Stay of Effective Date of Certain Rules

Please be advised that pursuant to Tennessee Code Annotated, Section 4-5-215, the Senate Government Operations Committee voted to withdraw the stay of the effectiveness of the following rulemaking hearing rules amendments filed by the Tennessee Wildlife Resources Agency:

Rule 1660-1-2-.02 – Migratory Bird Hunting

These rulemaking hearing rules amendments were to become effective May 19, 2002. The Senate Government Operations Committee voted on May 22, 2002, to withdraw the stay of the aforementioned rule amendments and, therefore, the balance of the seventy-five (75) day period applicable to this rule should be reactivated upon this date.

Thank you for your attention to this matter.

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

Applications will be heard at the July 24, 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 May 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

*Memorial Diagnostics, LLC
6400 Mountain View Road
Ooltewah (Hamilton Co.), TN 37363
Sandra Curtis – (423)—495-8562
CN0204-027

The relocation of Memorial Diagnostics, LLC. Memorial Diagnostics, LLC (CN0106-040A) was previously approved for the establishment of an outpatient diagnostic center and the initiation of magnetic resonance imaging services at 5915 Mountain View Road, Ooltewah, Tennessee.
\$ 6,786,044.00

Upper Cumberland Physicians Surgery Center
467 Whitney Avenue
Cookeville (Putnam Co.), TN 38501
John Wellborn – (615)—665-2022
CN0204-028

The relocation and expansion of the Upper Cumberland Physicians Surgery Center. Upper Cumberland Physicians Surgery Center CN0106-045 was previously approved to establish a multi-specialty ambulatory surgical treatment center (ASTC). The proposed project will contain 9,010 SF and include two (2) operating rooms and three (3) procedure rooms. The location of the previously approved project was 1059 Neal Street; Suite B, Cookeville, Tennessee 38501 and the proposed relocation site is 467 North Whitney Avenue, Cookeville, Tennessee 38501.
\$ 3,545,612.00

NAME AND ADDRESS	DESCRIPTION
Cookeville Regional Medical Authority 142 West Fifth Street Cookeville (Putnam Co.), TN 38501 John Wellborn – (616)—665-2022 CN0204-029	The initiation of mobile Positron Emission Tomography (PET) services one day per week at the main hospital campus, 142 West Fifth Street, Cookeville, Tennessee. \$ 493,785.00
John W. Harton Regional Medical Center 1801 North Jackson Street Tullahoma (Coffee Co.), TN 37388 William H. West – (615)—259-1450 CN0204-031	The construction of an outpatient diagnostic services building and the acquisition of a magnetic resonance imaging (MRI) scanner. The project will also include a computed tomography (CT) scanner with cardiac scanning capabilities, x-ray, ultrasound, nuclear medicine, mammography, and bone densitometry equipment. It will also incorporate a stereotactic breast biopsy unit. The project will be located on the Harton Regional Medical Center campus at 1801 North Jackson Street, Tullahoma, Tennessee. If approved, the applicant facility will move outpatient diagnostic radiology services into the new building and use the vacated space for inpatient services including the cardiology department and the addition of a neurosurgery department. \$ 12,065,911.00
The Surgery Center 315 North Washington Avenue Cookeville (Putnam Co.), TN 38501 William H. West – (615)—259-1450 CN0204-032	The establishment of a multi-specialty ambulatory surgical treatment center (ASTC) with two operating rooms to be located at 315 North Washington Avenue, Putnam County, Tennessee 38501. \$ 2,796,783.00

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

NOTICE OF WITHDRAWAL OF RULE

The Tennessee Wildlife Resources Commission hereby gives notice of withdrawal of Rule 1660-1-8-.05 filed with the Department of State on the 5th day of March, 2002, to have become effective on the 19th day of May, 2002.

The notice of withdrawal of rules set out herein was properly filed in the Department of State on the 15th day of May, 2002. (05-10)

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EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0080 - Department of Agriculture - Division of Animal Industries - Emergency Rules promulgated in response to the threat of Chronic Wasting Disease introduction into the State of Tennessee, chapter 0080-2-1 Health Requirements for Admission and Transportation of Livestock and Poultry, 5 T.A.R. (May 15, 2002).
- 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

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180 BANK DIVISION

CHAPTER 0180-31 LOAN PRODUCTION OFFICES

Presented herein are proposed rules of the Department of Financial Institutions submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Financial Institutions to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in Suite 400, Nashville City Center, 511 Union Street, Nashville TN 37219 and in the Department of State, Eighth Floor, William R. Snodgrass Tower, 312 8th Avenue North, Nashville, Tennessee 37243-0293, 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: Tina G. Miller, Staff Attorney, Tennessee Department of Financial Institutions, 27th Floor William R. Snodgrass Tennessee Tower, 312 8th Avenue North, 615/532-1030.

NEW RULE

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0180-31-.01 Scope.
0180-31-.02 Definitions.

0180-31-.03 Establishment of Loan Production Office.

0180-31-.01 SCOPE.

This chapter establishes the notification procedures for a Tennessee-chartered bank to establish a loan production office.

Authority: T.C.A. §§45-1-107; 45-2-601, and 45-2-614.

0180-31-.02 DEFINITIONS.

- (1) "Branch" means, with respect to a state bank, any place of business separated from the main office of a bank at which deposits are received, or checks paid or money lent;
- (2) "Commissioner" means the Commissioner of the Department of Financial Institutions;

- (3) "Loan Production Office" means an office established by a bank located at a place other than the principal or branch office for the purpose of soliciting and/or originating loans. The loan production office may not receive deposits, pay checks or lend money as those functions are reserved for branches.
- (4) "Tennessee-chartered bank" means a bank chartered by the Tennessee Department of Financial Institutions pursuant to Title 45, Chapter 2 of the Tennessee Code Annotated.

Authority: T.C.A. §§45-1-103(4); 45-1-107; 45-2-601; 45-2-607, and 45-2-1603.

0180-31-.03 ESTABLISHMENT OF LOAN PRODUCTION OFFICE.

- (1) All Tennessee-chartered banks shall file a notice with the commissioner 14 days prior to establishing a loan production office. The notice shall include:
 - (a) The name of the bank and its address;
 - (b) The name and address of the loan production office;
 - (c) The name and address of the bank officer responsible for loan production office activities;
 - (d) Description of proposed activities to be conducted at the loan production office;
 - (e) The date the loan production office plans to open for business; and,
 - (f) If the loan production office is to be located outside the State of Tennessee, provide a no-objection letter from the state where the loan production office will be located.
- (2) The notice required by subsection (1) shall be filed for each loan production office established.
- (3) Each notice shall be accompanied by a non-refundable fee of \$100.00.
- (4) The commissioner may object, based on safety and soundness concerns, to some banks establishing a proposed loan production office;
- (5) Each notice shall be amended when there is a material change in the information provided pursuant to subsection (1). No fee is required for amendments.
- (6) All Tennessee-chartered banks shall notify the commissioner of the closure of a loan production office; the date of closure; the disposition of any records previously maintained at the loan production office subject to closure, and; the names, addresses, and telephone numbers of parties to whom pending loans have been or will be transferred or assigned. No fee is required for a notice of closure.
- (7) If the loan production office will be using an assumed name, the loan production office shall comply with the requirements of Rule 0180-7-.09.
- (8) A loan production office operated by a Tennessee-chartered bank may be subject to periodic inspection by the Department of Financial Institutions. The commissioner may order that an out-of-state loan production office of a Tennessee chartered bank be inspected. All expenses incurred by the Department of Financial Institutions as a result of any such out-of-state inspection shall be paid in full by the bank in accordance with Chapter 0180-20 of these rules.

Authority: T.C.A. §§45-1-107, 45-1-118, 45-2-601, 45-2-607, 45-2-614, and 45-2-1603.

The proposed rules set out herein were properly filed in the Department of State on the 7th day of May, 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 27th day of September, 2002. (05-03)

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

**CHAPTER 1340-1-13-.12
CLASSIFIED AND COMMERCIAL DRIVER LICENSES**

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

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

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1340-1-13-.12 is amended by deleting paragraphs (1) and (2) in their entirety, and substituting the following language so that as amended, the rule shall read:

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

- (1) The Driver License Examiner will require positive proof of date of birth, residency, and identification of any person applying for any class of driver license or photo identification license.
- (2) Acceptable primary identification will include original or certified documents with full name and date of birth, such as the following items as approved by the Department of Safety:
 - (a) Certified/Original Birth Certificate
 - (b) Military Identification
 - (c) Valid passport or Resident Alien Card

- (d) Out-of-State License/Another Country's License
- (e) Marriage License/Certificate
- (f) Federal Census Record
- (g) Applicant's Own Child's Birth Certificate
- (h) Adoptive Decree
- (i) Legal Change of Name (as recorded in court decree)
- (j) Military Discharge (for separation from service)
- (k) Any confirmation of date of birth in court of law
- (l) Immigration & Naturalization Service documentation
- (m) Social Security Number Verification
- (n) Any other documentary evidence which confirms to the satisfaction of the Department the true identity and date of birth of the applicant.

Authority: T.C.A. §55-50-202.

Rule 1340-1-13-.12 is further amended by inserting new paragraph (3) in its entirety, so that as amended, the rule shall read:

- (3) If the Department has reason to question the authenticity of any document provided, the Department shall confirm the authenticity of the document(s). If the document(s) cannot be authenticated to the satisfaction of the Department, the document(s) shall not be accepted..

Authority: T.C.A. §55-50-202.

Rule 1340-1-13-.12 is further amended by renumbering the former paragraphs (3) through (7) to be paragraphs (4) through (8) and amending the numbering of two instances of the numeral 6 to 7 within paragraph 8, so that as amended, the rule shall read:

- (4) In addition to the primary identification, verification of the Social Security Number is required for applicants for commercial driver licenses and may be required for applicants for other classes of driver or photo identification licenses. Acceptable verification includes original, computer generated or typed documents containing the Social Security Number such as:
 - (a) Social Security Card itself, not metal or plastic replicas
 - (b) Out-of-State Driver License
 - (c) Military Records: IDEA, Assignment orders, DD-214, Selective service card
 - (d) Social Security Print Out
 - (e) IRS Forms and W-2 Forms

- (f) Health Insurance Card
 - (g) Medicaid/Medicare Cards
 - (h) Computer Printouts of Bank Statements, and Saving Account Statements
 - (i) Work ID's
 - (j) Computerized Check Stubs
 - (k) Union Membership Cards.
- (5) The following documents are acceptable for name changes:
- (a) Certified or original Marriage Certificate
 - (b) Certified Court Order
 - (c) Certified Divorce Decree
 - (d) Military Identification
 - (e) Any other documentary evidence which confirms to the satisfaction of the Department the applicant's name change..
- (6) The following document is required for gender changes:
- (a) A statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete.
- (7) An applicant seeking to obtain a driver license upon initial issuance shall provide acceptable proof of residency which shall consist of providing two (2) documents including, but not limited to, the following, which must include the applicant's name or the name of the applicant's spouse, if the applicant has a spouse, or if the applicant is a minor, the name of a parent or legal guardian:
- (a) Utility bill, including telephone service, showing a valid Tennessee residence address;
 - (b) Bank Statement showing a valid Tennessee residence address;
 - (c) Rental contract or receipt showing a valid Tennessee residence address;
 - (d) Employer verification acceptable by the Department;
 - (e) Automobile, Life, or Health Insurance Policies showing a valid Tennessee residence address;
 - (f) Driver License issued by State of Tennessee to a parent, legal guardian or spouse;
 - (g) Tennessee motor vehicle registration showing a valid Tennessee residence address;
 - (h) Internal Revenue Service Tax Reporting W-2 form;
 - (i) Receipt for personal or real estate taxes paid within the last year showing a valid Tennessee resident address;

- (j) In the case of a student enrolled in a public or private education institution in this state, the student may provide a photo student I.D. and documentation acceptable to the Department that the student resides on campus.
- (8) Should an applicant be unable to provide two (2) of the documents described in paragraph 7, the applicant may provide acceptable proof of residency by providing one (1) of the documents listed in paragraph 7 and one (1) of the following:
 - (a) The Individual Taxpayer Identification Number (ITIN) issued by the Internal Revenue Service resulting from the submission of a Form W-7 to the Internal Revenue Service;
 - (b) Form I-94 issued to the applicant by the Immigration and Naturalization Service;
 - (c) Employment authorization document (E.A.D.) issued to the applicant by the Immigration and Naturalization Service (INS);
 - (d) I-551 issued to the applicant by the Immigration and Naturalization Service (INS).

Authority: T.C.A. §55-50-202.

The proposed rules set out herein were properly filed in the Department of State on the 7th day of May, 2002, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 27th day of September, 2002. (05-05)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0400 - Department of Environment and Conservation - Division of Radiological Health - Public Necessity rules dealing with regulation of radioactive materials under the terms of an agreement between Tennessee and the U.S. Nuclear Regulatory Commission (NRC), chapters 1200-2-4, 5, 7, 8, 10, and 12, 5 T.A.R. (May 2002) - Filed April 18, 2002; effective through September 30, 2002. (04-18)

- 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

TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES - 0250 FOSTER CARE SERVICES

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. § 37-5-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in Conference Room 7A on the 7th Floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, Tennessee, 37243, at 9:00 a.m. on the 18th day of July, 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Children's Services to discuss any auxiliary aids of services needed to facilitate participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Children's Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Children's Services ADA Coordinator, Maggie Winbush, Personnel Analyst 3, at 7th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville, Tennessee, 37243, 615-741-9175.

For a copy of this notice of rulemaking hearing, contact: Elizabeth Black, Program Coordinator, Foster Care Services, Cordell Hull Building, 8th Floor, 436 6th Avenue, North, Nashville, TN 37243; (615) 532-1102.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0250-7-1 KINSHIP FOSTER CARE

NEW RULES

TABLE OF CONTENTS

0250-7-1-.01	Purpose of Chapter	0250-7-1-.03	Procedures for Kinship Foster Care
0250-7-1-.02	Definitions for Purposes of This Chapter	0250-7-1-.04	Confidentiality

0250-7-1-.01 PURPOSE OF CHAPTER

- (1) The purpose of this chapter is to provide, in compliance with Tennessee Code Annotated § 37-2-414, procedures for the Kinship Foster Care Program within the Department of Children's Services.

Authority: T.C.A. §§37-2-414, 37-2-413.

0250-7-1-.02 DEFINITIONS FOR PURPOSES OF THIS CHAPTER

- (1) Department - Refers to the Department of Children's Services.

- (2) Foster Parent - Any person with whom a child in the care, custody or guardianship of the department is placed for temporary or long term care, but shall not include any persons caring for a child if an adoption placement contract has been signed
- (3) Kinship Foster Care - The provision, by relatives, of full time, nurturing care for children in the department's custody. It is considered a form of out-of-home placement and a type of approved foster care placement.
- (4) Kinship Foster Parent - A relative caregiver who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care in a private residence for children who are related to them by birth, marriage, or adoption, and who have been removed from their homes as a result of a Child Protective Services investigation or a court adjudication of dependency and neglect, unruly or delinquent, and are in the legal custody of the Department of Children's Services.
- (5) Case Manager (CM)- Department of Children's Services staff person assigned to work with the Department of Children's Services foster homes and the children placed in those homes. It is the responsibility of the CM to insure that the child's needs are met, and the foster home is operating in compliance with the Department of Children's Services policy and procedures.
- (6) Team Leader - The front-line supervisor who is responsible for the supervision of staff working with the foster homes and children.
- (7) Team Coordinator - The Department of Children's Services program staff person with the responsibility for staff on one or more teams and with a variety of program responsibility.
- (8) Regional Administrator - The chief official of the Department of Children's Services in a group of counties, or an urban area that comprise a region. The Regional Administrator is responsible for the administration of program as well as the personnel and fiscal issues.
- (9) Foster Parent Training - Training that consists of group preparation for becoming foster and adoptive parents. This includes training on the developmental needs of children and the importance of working cooperatively with the birth parents.

Authority: T.C.A. §§37-1-414, 37-2-414

0250-7-1-.03 PROCEDURES FOR KINSHIP FOSTER CARE

- (1) A child must be found to be dependent and neglected by the current caregiver, or unruly or delinquent, pursuant to T. C. A. § 37-1-102, and placed into the legal custody of the Department of Children's Services for a relative caregiver to qualify for the Kinship Foster Care Program.
- (2) Children must be related to the caregiver by birth, marriage or adoption to participate in the Kinship Foster Care Program.
- (3) Diligent Search and Expedited Approval of Kinship Foster Home.
 - (a) Within seven working days of a child coming into DCS custody, a diligent search must be made for any absent parent and/or relative of the child. This search should include an interview with the child and his or her biological parents, a search of public child welfare, welfare, law enforcement, and other government agency databases.. If relatives are able and willing to be resources and desire to participate in the Kinship Foster Care Program, the department must assess their suitability and ability to care for the child. In order for the placement to be an approved foster home, the assigned case manager must:

1. Visit the home of the relative caregiver applying to become a Kinship Foster Parent and conduct and complete home visit,
 2. Conduct a face-to-face interview with the prospective Kinship Foster Parents,
 3. Complete a local criminal records check on the prospective kinship foster parents and any other adults in the home. Approval shall not be given if the criminal records check reveals a felony conviction of any type of child abuse or neglect, spouse abuse, a crime against children such as child pornography, or a violent crime such as rape, sexual assault or homicide. Additionally, approval shall be denied if the criminal records check reveals a conviction for physical assault, battery, or a drug-related offense with the last five (5) years. Approval shall not be granted if there are pending criminal charges or allegations against the prospective foster parent or any adult residing in the prospective foster parent's home until such time as the charges or allegations are resolved.
- (4) Each relative who is approved as a Kinship Foster Parent must be twenty-one (21) years old or older, except if the spouse or partner of the relative is twenty-one (21) years of age or older and living in the home, and the relative is between eighteen (18), or has been legally emancipated by an appropriate court of jurisdiction, and twenty-one (21) years of age, the department may waive the age requirement. This waiver requires the written approval of the Director of Foster Care.
- (5) Married or single persons may be approved as foster parents. All parents shall be approved based on their abilities to meet the needs of the child(ren). Other children and adults in the home shall be taken into consideration in terms of how they might be affected by or have an effect upon the child in state custody. Any other adult in the home who may care for the child in any way must become a co-applicant and meet all requirements, including training and background check requirements. If the interview, home visit, and records check are satisfactory according to DCS policy, the kinship foster home, with approval from the Regional Administrator, may be fully approved. The child may be placed in the foster home, and the home should be afforded full status as an approved foster home.
- (6) Services available to Kinship Foster Parents are the same types of services available to all Foster Parents and include case management, respite care, childcare, referrals, and access to flexible funding.
- (7) Kinship Foster Care Homes Reimbursement
- (a) Upon receiving approval as a Kinship Foster Home, foster care board payments will be made based on the age of the foster child, and consistent with the full foster care board payments currently in effect and outlined in the Administrative Policies, and Procedures, Chapter 16 and the Foster Parent Handbook. As with all foster parents, this board payment is made available to foster families unless they decline its' offering.
 - (b) A Child Placement Contract between the Department and the Kinship Foster Parent must be signed by the kinship foster parent and the case manager. This contract will outline the responsibilities of the Kinship Foster Parent as well as the Department, and will provide a specific amount of board payment. Kinship Foster Parents will be expected to provide the foster child with a personal allowance if age-appropriate.
- (8) Ongoing Approval Process of Kinship Foster Home is the same process for Kinship Foster Parents as other Foster Parents.
- (a) The following foster home approval requirements must be completed after initial approval. Information gathered shall be used to re-evaluate the home and make a determination as to the ongoing approval of the home. Completion of the re-evaluation shall be completed within sixty (60) days of the completion of

Foster Parent Training. All kinship foster homes must meet all of the same requirements for unrelated foster parents.

1. Each approved kinship foster home is subject to the same policies and procedures as any other DCS foster home, as outlined in the Administrative Policies and Procedures, Chapter 16. As this is the priority placement for children in state custody, when extended family members are able to provide safe, stable homes for children, staff should work to recruit, train and support these Kinship Foster Parents and request waivers as needed to maintain these placements.
 2. Fingerprinting of the Kinship Foster Parent and of any adult residing in the prospective foster parent's home is required as a part of the ongoing approval of the Kinship Foster Home. A child may not remain in any home when it has been discovered through fingerprinting that a person in the home has been convicted of a felony of any type of child abuse or neglect, spouse abuse, a crime against children such as child pornography, or a violent crime such as rape, sexual assault or homicide.
 3. The Child Protective Services records must be reviewed statewide to ascertain if there is any history of child abuse or neglect.
 4. The TBI Sexual Offender Registry must also be checked via the internet, and documented in the foster home record to ascertain if there is any history of abuse.
 5. Each Kinship Foster Parent must supply all same documentation to the Department of Children's Services as required of all Foster Parents including a statement of medical fitness to provide foster care services.
 6. Each Kinship Foster Parent will be required to attend an approved foster parent training class offered through the Department of Children's Services or the Relative Caregiver Pilot Program. In extraordinary circumstances, the training may be waived for any Foster Parents, including Kinship Foster Parents.
 7. Each approved Kinship Foster Parent must sign a statement agreeing not to use physical punishment or allow the use of physical punishment by any other person in the home. Each approved kinship foster home must be in compliance with the department's discipline policy as outlined in the Administrative Policies and Procedures, Chapter 16.
- 9) Permanency Planning in Kinship Foster Care
- (a) Kinship Foster Parents shall be involved in all of the key decisions related to children in their care including the development of the Permanency Plan. Kinship foster parents will be given an explanation of their role and responsibilities, along with those of the child's parents and the department in working to secure a stable, safe and permanent home for the child.
 - (b) Kinship Foster Parents shall be given notice of, and the opportunity to be heard at, all review hearings in order that the court will be able to hear information about the child from the individual (s) who has ongoing, continuous care of the child.
 - (c) Kinship foster parents must be heard and willing to work with the child's parents, the department, and the courts by cooperating with visitation between the child and their parents, supporting the implementation of the permanency goal, and providing transportation, as needed.
 - (d) Long-term relative placement is a viable permanency option for children in relative placement. A permanency goal of permanent planning living arrangement may be assigned to a child if an appropriate

relative has been identified, the relative is willing and able to assume long-term responsibility for the child but has legitimate concerns about adoption, and it is in the best interest of the child to remain in the home of the relative.

- (e) The type of support available to families is, many times, dictated by legal relationship. Families should be apprised of these options for support, and included in this key decision.

Authority: T.C.A. §§37-2-412, 37-2-414

0250-7-1-.04 CONFIDENTIALITY OF INFORMATION

- (1) Any information received, pursuant to this part, by the Department of Children's Services or by the Kinship Foster Parent shall not be disclosed. Disclosure of this information is a Class A misdemeanor.

Authority: T.C.A. §37-2-414

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of May, 2002. (05-09)

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-119, and 63-4-123. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 30th 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 0260-2-.06, Fees, is amended by deleting paragraph (3) and subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e), and (4) (f) in their entirety and substituting instead the following language, so that as amended, the new paragraph (3) and the new subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e), and (4) (f) shall read:

- (3) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Board of Chiropractic Examiners.
- | | | |
|---------|------------------------------------|----------|
| (4) (a) | Application | \$350.00 |
| (4) (b) | Late Renewal | 150.00 |
| (4) (c) | Renewal (biennial) | 275.00 |
| (4) (d) | Replacement License or Certificate | 75.00 |
| (4) (e) | Criteria (Reciprocity) | 350.00 |
| (4) (f) | Externship Certificate | 150.00 |

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, and 63-4-120.

Rule 0260-3-.06, Fees, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (2), so that as amended, the new paragraphs (1) and (2) shall read:

- | | | |
|-----|------------------------------|----------|
| (1) | Fee Schedule | Amount |
| | (a) Proficiency | |
| | 1. Application | \$ 80.00 |
| | 2. Examination (State Board) | 100.00 |
| | (b) Certification | |
| | 1. Late Fee | \$ 75.00 |
| | 2. Certificate Fee (initial) | 180.00 |
| | 3. Renewal | 125.00 |
| | 4. Reciprocity | 100.00 |
| | 5. Replacement Certificate | 75.00 |

6. State Regulatory (biennial) 10.00

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

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-4-106, and 63-4-119.

Rule 0260-5-.06, Fees, is amended by deleting paragraphs (3) and (4) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (3) and (4) shall read:

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

(4)	Fee Schedule	Amount
	(a) Proficiency	
	1. Application	\$100.00
	2. Examination (State Board)	\$200.00
	(b) Certification	
	1. Late Fee	\$100.00
	2. Certificate Fee (initial)	\$200.00
	3. Renewal	\$125.00
	4. Reciprocity	\$150.00
	5. Replacement Certificate	\$75.00
	6. State Regulatory (biennial)	\$10.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-4-106, and 63-4-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-15)

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

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 18th 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 0450-1-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (a), (1) (d), (2) (a), (2) (c), (3) (b), (3) (e), (4) (a), and (4) (b) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (4) (c) in its entirety, so that as amended, the new subparagraphs (1) (a), (1) (d), (2) (a), (2) (c), (3) (b), (3) (e), (4) (a), and (4) (b) shall read:

- (1) (a) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (1) (d) An applicant shall pay, at the time of application, the nonrefundable application fee as provided in rule 0450-1-.06.
- (2) (a) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (2) (c) An individual seeking to upgrade shall pay the nonrefundable upgrade review fee, pursuant to rule 0450-1-.06, upon submission of the upgrade application.
- (3) (b) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (3) (e) An individual seeking to upgrade shall pay the nonrefundable upgrade review fee, pursuant to rule 0450-1-.06, upon submission of the upgrade application.
- (4) (a) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.

- (4) (b) An applicant for professional counselor with mental health service provider designation may file one (1) application and all required documentation, along with the non-refundable application fee required by Rule 0450-1-.06, pursuant to procedures outlined in paragraph (1) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-104, 63-22-116, and 63-22-120.

Rule 0450-1-.06, Fees, is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (a) shall read:

- (1) (a) Application fee - A nonrefundable fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-104, and 63-22-116.

Rule 0450-1-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet. The submitted application shall be accompanied by the nonrefundable application for licensure fee pursuant to rule 0450-1-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-104, 63-22-116, and 63-22-120

Rule 0450-1-.12, Continuing Education, is amended by adding the following language as new subparagraph (1) (c) and renumbering the remaining subparagraph accordingly, and is further amended by adding the following language as new paragraph (3):

- (1) (c) Three (3) clock hours of the ten (10) clock hour annual requirement shall pertain to professional ethics. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists shall have three (3) clock hours of the fifteen (15) clock hour annual requirement pertain to professional ethics. A person who holds three (3) certificates and/or licenses shall have three (3) clock hours of the twenty (20) clock hour annual requirement pertain to professional ethics.
- (3) Multi-Media - Notwithstanding the provisions of paragraph (2) and part (5) (b) 3., continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats.

- (a) Multi-Media courses may include courses utilizing:

1. The Internet
2. Closed circuit television
3. Satellite broadcasts
4. Correspondence courses
5. Videotapes

6. CD-ROM
 7. DVD
 8. Teleconferencing
 9. Videoconferencing
 10. Distance learning
- (b) A maximum of five (5) clock hours may be received for multi-media courses during each calendar year. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists may receive a maximum of seven and one-half (7½) clock hours for multi-media courses during each calendar year. Those persons who hold three (3) certificates and/or licenses may receive a maximum of ten (10) clock hours for multi-media courses during each calendar year.

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

Rule 0450-2-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (a), (1) (d), (2) (a), (2) (c), (3) (b), (3) (e), (4) (b), and (4) (e) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (4) (c) in its entirety, so that as amended, the new subparagraphs (1) (a), (1) (d), (2) (a), (2) (c), (3) (b), (3) (e), (4) (b), and (4) (e) shall read:

- (1) (a) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (1) (d) An applicant shall pay, at the time of application, the nonrefundable application fee as provided in rule 0450-2-.06.
- (2) (a) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (2) (c) An individual seeking to upgrade shall pay the nonrefundable upgrade review fee, pursuant to rule 0450-2-.06, upon submission of the upgrade application.
- (3) (b) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (3) (e) An individual seeking to upgrade shall pay the nonrefundable application fee, pursuant to rule 0450-2-.06, upon submission of the application.
- (4) (b) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet.
- (4) (e) An applicant shall pay, at the time of application, the nonrefundable application fee as provided in rule 0450-2-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-103, 63-22-104, and 63-22-106.

Rule 0450-2-.06, Fees, is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (a) shall read:

- (1) (a) Application fee - A nonrefundable fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-103, and 63-22-106.

Rule 0450-2-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet. The submitted application shall be accompanied by the nonrefundable application for licensure fee pursuant to rule 0450-2-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-103, and 63-22-106.

Rule 0450-2-.12, Continuing Education, is amended by adding the following language as new subparagraph (1) (c) and renumbering the remaining subparagraph accordingly and is further amended by adding the following language as new paragraph (3):

- (1) (c) Three (3) clock hours of the ten (10) clock hour annual requirement shall pertain to professional ethics. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists shall have three (3) clock hours of the fifteen (15) clock hour annual requirement pertain to professional ethics. A person who holds three (3) certificates and/or licenses shall have three (3) clock hours of the twenty (20) clock hour annual requirement pertain to professional ethics.
- (3) Multi-Media - Notwithstanding the provisions of paragraph (2) and part (5) (b) 3., continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats.

(a) Multi-Media courses may include courses utilizing:

1. The Internet
2. Closed circuit television
3. Satellite broadcasts
4. Correspondence courses
5. Videotapes
6. CD-ROM
7. DVD
8. Teleconferencing

9. Videoconferencing
 10. Distance learning
- (b) A maximum of five (5) clock hours may be received for multi-media courses during each calendar year. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists may receive a maximum of seven and one-half (7½) clock hours for multi-media courses during each calendar year. Those persons who hold three (3) certificates and/or licenses may receive a maximum of ten (10) clock hours for multi-media courses during each calendar year.

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

Rule 0450-3-.08, Examination, is amended by deleting subparagraphs (1) (b) and (1) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b) and (1) (c) shall read:

- (1) (b) The Board adopts as its written examination for clinical pastoral therapists the examination given by the Pastoral Counselors Examination Service, or may adopt at its discretion any other examination deemed acceptable.
- (1) (c) The testing agency governs the examination dates. The Board's Administrative Office will administer the examination as scheduled by the Pastoral Counselors Examination Service or as scheduled by any other Board-approved examination service.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, and 63-22-203.

Rule 0450-3-.12, Continuing Education, is amended by adding the following language as new subparagraph (1) (c) and renumbering the remaining subparagraph accordingly and is further amended by adding the following language as new paragraph (3):

- (1) (c) Three (3) clock hours of the ten (10) clock hour annual requirement shall pertain to professional ethics. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists shall have three (3) clock hours of the fifteen (15) clock hour annual requirement pertain to professional ethics. A person who holds three (3) certificates and/or licenses shall have three (3) clock hours of the twenty (20) clock hour annual requirement pertain to professional ethics.
- (3) Multi-Media - Notwithstanding the provisions of paragraph (2) and part (5) (b) 3., continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats.
 - (a) Multi-Media courses may include courses utilizing:
 1. The Internet
 2. Closed circuit television
 3. Satellite broadcasts

4. Correspondence courses
5. Videotapes
6. CD-ROM
7. DVD
8. Teleconferencing
9. Videoconferencing
10. Distance learning

- (b) A maximum of five (5) clock hours may be received for multi-media courses during each calendar year. Those persons who hold two (2) certificates and/or licenses regulated by the Tennessee Board for Professional Counselors, Marital and Family Therapists and Clinical Pastoral Therapists may receive a maximum of seven and one-half (7½) clock hours for multi-media courses during each calendar year. Those persons who hold three (3) certificates and/or licenses may receive a maximum of ten (10) clock hours for multi-media courses during each calendar year.

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

NEW RULES

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0450-1-.21	Cyber-Counseling	0450-3-.21	Cyber-Therapy
0450-2-.21	Cyber-Therapy		

0450-1-.21 CYBER-COUNSELING.

- (1) No person shall engage in the practice of counseling across state lines in this State, hold himself out as qualified to do the same, or use any title, word, or abbreviation to indicate to or induce others to believe that he/she is licensed to practice counseling across state lines in this State unless he/she is actually so licensed in accordance with the provisions of this chapter.
- (2) Definition - As used in this rule, the practice of counseling across state lines (cyber-counseling) means the rendering of counseling services as defined in Rule 0450-1-.02 within this State by a counselor located outside this State as a result of transmission of data by electronic or other means from within this State to such counselor or his/her agent.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-110, and 63-22-150.

0450-2-.21 CYBER-THERAPY.

- (1) No person shall engage in the practice of marital and family therapy across state lines in this State, hold himself out as qualified to do the same, or use any title, word, or abbreviation to indicate to or induce others to believe that he/she is licensed to practice marital and family therapy across state lines in this State unless he/she is actually so licensed in accordance with the provisions of this chapter.
- (2) Definition - As used in this rule, the practice of marital and family therapy across state lines (cyber-therapy) means the rendering of marital and family therapy services as defined in Rule 0450-2-.02 within this State by a marital and family therapist located outside this State as a result of transmission of data by electronic or other means from within this State to such marital and family therapist or his/her agent.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-110, and 63-22-115.

0450-3-.21 CYBER-THERAPY.

- (1) No person shall engage in the practice of clinical pastoral therapy across state lines in this State, hold himself out as qualified to do the same, or use any title, word, or abbreviation to indicate to or induce others to believe that he/she is certified to practice clinical pastoral therapy across state lines in this State unless he/she is actually so certified in accordance with the provisions of this chapter.
- (2) Definition - As used in this rule, the practice of clinical pastoral therapy across state lines (cyber-therapy) means the rendering of clinical pastoral therapy as defined in T.C.A. § 63-22-201 within this State by a clinical pastoral therapist located outside this State as a result of transmission of data by electronic or other means from within this State to such clinical pastoral therapist or his/her agent.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-110, 63-22-201, and 63-22-202.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-14)

TENNESSEE BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 6th day of August, 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, 1st Flr., Cordell Hull Building 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUMMARY OF PROPOSED RULES

AMENDMENTS

Rule 0460-1-.01, Definitions, is amended by revising the definitions for Certified Dental Assistant, Dental Hygienist, and Practical Dental Assistant, and by including new definitions for Coronal Polishing, Registered Dental Assistant, and Sealant Application.

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

Rule 0460-1-.02, Fees, is amended by deleting subparagraph (3) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (3) (h), so that as amended, the new subparagraphs (3) (g) and (3) (h) shall read as follows:

- | | | | |
|-----|-----|---|---------|
| (3) | (g) | Coronal Polishing Examination Fee -
Payable each time the registrant applies
to sit for the written and/or clinical examination.
It is collected by the Board's Administrative Office. | \$75.00 |
| (3) | (h) | Sealant Application Certification Fee -
To be paid to the Board's Administrative Office. | \$15.00 |

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

Chapter 0460-3, Rules Governing Practice of Dental Hygienists, is amended by deleting the words "direct supervision" and substituting the words "direct and/or general supervision" wherever those words appear in this chapter.

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

Rule 0460-3-.06, Nitrous Oxide Certification, is amended by deleting the introductory language and substituting instead the following language, and is further amended by revising the paragraph regarding Monitoring Certification and by adding a new paragraph concerning Administration and Monitoring Certification.

0460-3-.06 NITROUS OXIDE CERTIFICATION. Dental hygienists may administer and/or monitor nitrous oxide upon issuance of certification after successful completion of a Board-approved Nitrous Oxide Certification Course and in compliance with T.C.A. § 63-5-108(d) and this rule. To become certified, the licensed dental hygienist must complete and abide by the following process and rules:

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

Rule 0460-3-.09, Scope of Practice, is amended by deleting the introductory language and substituting instead the following language, and is further amended by revising the list of Delegable or Assignable Procedures and by adding a sentence that states that "under the direct supervision of a licensed dentist, dental hygienists may perform services including, but not limited to root planing and subgingival curettage; and sulcular treatment, pursuant to Rule 0460-3-.06".

0460-3-.09 SCOPE OF PRACTICE. Licensed Dental Hygienists may only practice under direct and/or general supervision in the employment of a licensed dentist consistent with the provisions of T.C.A. Chapter 5, Title 63.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

Rule 0460-4-.04, Coronal Polishing Certification, is amended by revising the definition for Coronal Polishing and by including an year experience requirement for such certification, and by deleting the language regarding supervision.

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

Rule 0460-4-.05, Nitrous Oxide Certification, is amended to include supervision requirements.

- (1) A dental assistant must be currently registered, pursuant to Rule 0460-4-.02, by the Board in order to be eligible to attend a certification course in monitoring nitrous oxide and/or qualify for certification.

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

Rule 0460-4-.08, Scope of Practice, is amended to include a list of Delegable or Assignable Procedures.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

NEW RULES

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0460-4-.09 Sealant Applicant Certification

0460-4-.09 SEALANT APPLICANT CERTIFICATION. This rule permits a registered dental assistant with this certification to perform sealant application under the direct supervision of a licensed dentist. The qualifications consist of an education requirement. Sealant application will only be performed under the direct supervision of a Tennessee licensed dentist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

NEW RULES

CHAPTER 0460-5

GENERAL RULES GOVERNING SCHOOLS, PROGRAMS AND COURSES FOR DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS

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0460-5-.01 Schools of Dentistry	0460-5-.03 Schools, Programs and Courses for the Registered Dental Assistant
0460-5-.02 Schools, Programs and Courses for the Dental Hygienist	

0460-5-.01 SCHOOLS OF DENTISTRY. The language for this rule is Reserved.

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

0460-5-.02 SCHOOLS, PROGRAMS, AND COURSES FOR THE DENTAL HYGIENIST. The language for Dental Hygiene Schools is Reserved. The rule describes the Certification Course in Administration & Monitoring of Nitrous Oxide and how the school may obtain and retain course approval. The rule also describes the Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum. The clinical instructor-to-student ratio will be one instructor to ten students (1:10) with a class size no larger than fifty (50) students. The certification course shall consist of fourteen (14) hours of study over a two (2) day period. The curriculum will be both didactic and clinical, and the passing score for the didactic portion shall be seventy-five percent (75%). The clinical portion of the course will be at least two (2) hours, including at least a one (1) hour of demonstration by an instructor and hands on by students.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

0460-5-.03 SCHOOLS, PROGRAMS AND COURSES FOR THE REGISTERED DENTAL ASSISTANT. The language regarding Registered Dental Assisting Programs (Board-Approved Programs and ADA-Accredited Programs) is Reserved. The rule describes the Certification Courses in Coronal Polishing, Sealant Application and Monitoring Nitrous Oxide, and how the school may obtain and retain course approval. The rule also describes the Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.

For Coronal Polishing Certification, the clinical instructor-to-student ratio will be one instructor to six students (1:6). The certification course shall consist of fourteen (14) hours of study over a two (2) day period. The curriculum will be both didactic and clinical, and the passing score for the didactic portion shall be seventy-five percent (75%). The clinical portion of the course will be at least two (2) hours, including at least a one-half (½) hour of demonstration by an instructor.

For Sealant Application Certification, the clinical instructor-to-student ratio will be one instructor to twenty students (1:20) with a class size no larger than fifty (40) students. The certification course shall consist of twelve (12) hours of study. The curriculum will be both didactic and clinical, and the passing score for the didactic portion shall be seventy-five percent (75%). The clinical portion of the course will be at least five (5) hours, including at least a one (1) hour of demonstration by an instructor.

For Certification in Monitoring Nitrous Oxide, the clinical instructor-to-student ratio will be one instructor to ten students (1:10) with a class size no larger than fifty (50) students. The certification course shall consist of ten (10) hours of study over a two (2) day period. The curriculum will be both didactic and clinical, and the passing score for the didactic portion shall be seventy-five percent (75%). The clinical portion of the course will be at least one and a half (1½), including at least a one-half (½) hour of demonstration by an instructor and hands on by students.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 30, 2002. (05-25)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 6th day of August, 2002.

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

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

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (b) and renumbering the remaining subparagraphs accordingly, and is further amended by adding the following language as new subpart (3) (d) 1. (x) and new part (3) (d) 5., so that as amended, the new subparagraphs (1) (a) and (1) (b), the new subpart (3) (d) 1. (x), and the new part (3) (d) 5. shall read:

- (1) (a) Each licensed dentist and dental hygienist must successfully complete fifteen (15) hours of continuing education each calendar year (January 1-December 31) in courses approved by the Board.
 - 1. At least one (1) hour of the fifteen (15) hour annual requirement shall pertain to chemical dependency education.
 - 2. No more than three (3) hours of practice management courses shall be counted towards satisfying the fifteen (15) hour annual requirement.
- (1) (b) Each registered dental assistant must successfully complete twelve (12) hours of continuing education each calendar year (January 1-December 31) in courses approved by the Board.
 - 1. At least one (1) hour of the twelve (12) hour annual requirement shall pertain to chemical dependency education.
 - 2. No more than two (2) hours of practice management courses shall be counted towards satisfying the twelve (12) hour annual requirement.
- (3) (d) 1. (x) Tennessee Department of Health.

- (3) (d) 5. Courses in Advanced and Pediatric Cardiac Life Support that are sponsored by the American Heart Association or the American Red Cross. However, the hours awarded for such courses shall not be counted towards the CPR requirements of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-112, 63-5-114, and 63-5-115.

Rule 0460-2-.02, Dual Degree Licensure Process, is amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (7) shall read:

- (7) If the applicant has ever taken the SRTA examination or any other Board-approved examination as provided in rule 0460-2-.05, an application will not be approved unless and/or until a certification is submitted which indicates that the applicant achieved passing scores on all parts of the examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-110, and 63-5-111.

Rule 0460-2-.03, Educational Licensure Process, is amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new paragraph (7) shall read:

- (7) If the applicant has ever taken the SRTA examination or any other Board-approved examination as provided in rule 0460-2-.05, an application will not be approved unless and/or until a certification is submitted which indicates that the applicant achieved passing scores on all parts of the examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-110, and 63-5-111.

Rule 0460-2-.04, Licensure Exemption Process, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) The director of any special project not affiliated with a state supported institution or public health agency who intends to employ dentists licensed in another state must obtain approval of the special project by submitting a letter of request to the Board Administrative Office which sets forth all particulars of the special project. Dentists employed in the approved special projects may practice only until the next SRTA examination or any other Board-approved examination. However, dentists employed in such projects who are under the sponsorship of a dentist licensed in Tennessee and are under the auspices of a local dental society may only be employed for a period of six (6) months.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-109.

Rule 0460-2-.05, Examination, is amended by deleting the introductory language in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (1)(a) and paragraphs (2), (4), (6), (9), and (10) in their entirety, and substituting instead the following language, so that as amended, the new introductory language, the new subparagraph (1)(a), and the new paragraphs (2), (4), (6), (9), and (10) shall read:

0460-2-.05 EXAMINATION. All persons intending to apply for licensure as a dentist in Tennessee must successfully complete the examinations provided by this rule, except for educational licensure applicants and dual degree licensure applicants who need not complete any licensure examinations. Completion of the required examinations is a prerequisite for application for licensure. Certification of successful completion must be submitted as part of the application process.

- (1) (a) The SRTA examination or any other Board-approved examination; and
- (2) Admission to, application for and the fees required to sit for the SRTA and National Boards' examinations are governed by and must be submitted to the testing agency. Admission to, application for and the fees required to sit for any other Board-approved examination must be submitted to the Board, or at the Board's option, its designated exam administrator.
- (4) Passing scores on the SRTA and National Board examinations are determined by the testing agency. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of those examinations. Passing scores for any other Board-approved examination are determined by the Board.
- (6) Applicants must supply or furnish their own patients, instruments and materials as required by the testing agency, the Board, or the Board's designated exam administrator.
- (9) The Board adopts as its own, the determination made by SRTA and the National Boards of the length of time that a passing score on their respective examinations will be effective for purposes of measuring competency and fitness for dental licensure; however, an applicant's test scores from SRTA exams or any other Board-approved examination which were taken over five (5) years before application was made for licensure in Tennessee will be considered by the Board on a case by case basis after the applicant appears before the Board for an examination.
- (10) Applicants for licensure who have failed three (3) times the National Board, the Southern Regional Testing Agency (SRTA) examination, or any other Board-approved examination must successfully complete a remedial course of post-graduate studies at a school accredited by the American Dental Association before consideration for licensure by the Board. The applicant shall cause the program director of the post-graduate program to provide written documentation of the content of such course and certify successful completion.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-110, and 63-5-111.*

Rule 0460-2-.06, Specialty Certification, is amended by deleting subparagraph (9) (a) and part (9) (b) 1. in their entirety and substituting instead the following language, so that as amended, the new paragraph (9) (a) and the part (9) (b) 1. shall read:

- (9) (a) Required Documentation - An applicant must submit to the Board Administrative Office certification of successful completion of at least two (2) years of graduate or post graduate study in pediatric dentistry according to the following:
 1. If such study is completed in whole or in part at a dental school, college or university the graduate or postgraduate program must be approved by the Council on Dental Education of the American Dental Association.
 2. The graduate or postgraduate program need not lead to an advanced degree.
 3. The program of study may be pursued in hospitals or clinics or other similar institutions.
 4. One (1) academic year of graduate or postgraduate study will be considered as equivalent to one (1) calendar year.

5. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.
- (9) (b) 1. Written Examination
 - (i) Objective Section – The subjects may cover all phases of Pediatric Dentistry including but not limited to the following:
 - (I) Pupal therapy for the primary and immature permanent teeth.
 - (II) Behavioral management (for the child and the parent).
 - (III) Operative procedures for the primary and immature permanent teeth. Prosthodontic procedures for the child. Dental Anatomy (primary teeth).
 - (IV) Properties and manipulation of materials (silver amalgam, silicious cements, resinous filling materials, impression gold castings, fused porcelain, gold foil, denture materials, appliance materials, impression materials, appliance materials, and materials for constructing models.
 - (V) Anesthesia, extraction and minor surgery.
 - (VI) Growth, development, and health problems of childhood.
 - (VII) Dental health guidance and preventive dentistry (for the child and the parents).
 - (ii) Subjective Section – Case histories with radiographs and/or plaster models shall be provided by the examiner and may include, but not be limited to, the following subjects:
 - (I) Treatment of primary teeth with exposed vital pulps.
 - (II) Traumatized permanent incisor teeth with Ellis Class II or III fractures.
 - (III) Comprehensive operative procedures for preschool children and children with mixed dentition, including carious tooth surfaces and Caries control procedures.
 - (IV) Justification for use of various types of space maintainers.
 - (V) Preventative orthodontic and dentofacial orthopedic treatment to intercept or correct a developing malocclusion.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-112, and 63-5-113.

Rule 0460-3-.04, Licensure Exemption Process, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) The director of any special project not affiliated with a state supported institution or public health agency who intends to employ dental hygienists licensed in other states must obtain approval of the special project by submitting a letter of request to the Board Administrative Office which sets forth all particulars of the special projects.

Dental hygienists employed in the approved special projects may practice only until the next SRTA examination, or any other Board-approved examination, or their licensure by criteria approval whichever comes first. However, dental hygienists employed in such projects who are under the sponsorship of a dentist licensed in Tennessee and are under the auspices of a local dentist licensed in Tennessee and are under the auspices of a local dental society may only be employed for a period of six (6) months pursuant to this type exemption.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-109, and 63-5-114.

Rule 0460-3-.05, Examination, is amended by deleting subparagraphs (1) (a) (1) (b) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (c) in its entirety, and is further amended by deleting paragraphs (2), (4), (6), (9), and (10) in their entirety, and substituting instead the following language, so that as amended, the new subparagraphs (1) (a) and (1) (b), and the new paragraphs (2), (4), (6), (9), and (10) shall read:

- (1) (a) The SRTA examination or any other Board-approved examination; and
- (1) (b) The National Board if the person graduated from a dental hygiene college, school or university after 1972.
- (2) Admission to, application for and the fees required to sit for the SRTA and National Boards' examinations are governed by and must be submitted to the testing agency. Admission to, application for and the fees required to sit for any other Board-approved examination must be submitted to the Board, or at the Board's option, its designated exam administrator.
- (4) Passing scores on the SRTA and National Board examinations are determined by the testing agency. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of those examinations. Passing scores for any other Board-approved examination are determined by the Board.
- (6) Applicants must supply or furnish their own patients, instruments and materials as required by the testing agency, the Board, or the Board's designated exam administrator.
- (9) The Board adopts as its own, the determination made by SRTA and the National Boards of the length of time that a passing score on their respective examinations will be effective for purposes of measuring competency and fitness for dental hygiene licensure.
- (10) Applicants for licensure who have failed three (3) times the National Board, the Southern Regional Testing Agency (SRTA) examination, or any other Board-approved examination must successfully complete a remedial course of post-graduate studies at a school accredited by the American Dental Association before consideration for licensure by the Board. The applicant shall cause the program director of the post-graduate program to provide written documentation of the content of such course and certify successful completion.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-17)

BOARD OF ELECTROLYSIS EXAMINERS - 0540

There will be a hearing before the Tennessee Board of Electrolysis Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, and 63-26-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia 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 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 0540-1-.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)	Application	\$ 150.00	\$ 175.00
(4) (g)	License Renewal – Biennial	680.00	340.00

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-109, 63-26-111, 63-26-112, 63-26-115, 63-26-116, and 63-26-120.

Rule 0540-3-.06, Fees, is amended by deleting subparagraph (4) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (a) shall read:

(4) (a)	Application	\$ 275.00
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Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, and 63-26-109.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-13)

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 22nd day of July, 2002.

Written comments will be included in the hearing records if received by the close of business July 22, 2002, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 22, 2002) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED AMENDMENT

CHAPTER 1200-3-4
OPEN BURNING

Item 2. of subparagraph (c) of paragraph (1) of rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION is amended by adding the following language ("However, the provisions of 1200-3-4-.03(4) as it pertains solely to "other rubber products" and "other plastics" are waived for incidental plastic or rubber materials which are an integral part of a structure used for fire training, such as plastic plumbing, fixtures, and conduit; electrical wiring insulation, connections, switches, and fixtures; interior trim; glues and resins in manufactured wood products; and vinyl window and door frames. Sheathing, decking, roofing, exterior siding and trim, and structural load-bearing members whose composition is primarily rubber or plastics are not considered incidental.") to the end of item 2, so that, as amended, the item shall read:

2. All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in rule 1200-3-4-.03, have been removed. "However, the provisions of 1200-3-4-.03(4) as it pertains solely to "other rubber products" and "other plastics" are waived for incidental plastic or rubber materials which are an integral part of a structure used for fire training, such as plastic plumbing, fixtures, and conduit; electrical wiring insulation, connections, switches, and fixtures; interior trim; glues and resins in manufactured wood products; and vinyl window and door frames. Sheathing, decking, roofing, exterior siding and trim, and structural load-bearing members whose composition is primarily rubber or plastics are not considered incidental."

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-12)

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 22nd day of July, 2002.

Written comments will be included in the hearing records if received by the close of business July 22, 2002, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 22, 2002) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. John Patton. For complete copies of the text of the notice, please contact Mr. John Patton, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUMMARY OF PROPOSED AMENDMENT

CHAPTER 1200-3-6
NON-PROCESS EMISSION STANDARDS

A new rule is added to Chapter 1200-3-6 and amendments are made to Chapters 1200-3-6 and amendments to Chapters 1200-3-2 and 4 as part of the state's procedure to satisfy its requirements under subpart DDDD of 40 CFR 60 to submit a plan to the EPA to regulate emissions from certain solid waste incinerators, including certain air curtain incinerators. Subpart DDDD is a guideline rule that mandates states submit plans to control emissions of air contaminants at least to the extent specified by the guideline rule.

This notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of May, 2002. (05-20)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 22nd day of July, 2002.

Written comments will be included in the hearing records if received by the close of business July 22, 2002, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (July 22, 2002) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Ms. Lacey Hardin at 615-532-0545. For complete copies of the text of the notice, please contact Mr. John E. Fuss, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0535.

SUBSTANCE OF PROPOSED AMENDMENT

CHAPTER 1200-3-18
VOLATILE ORGANIC COMPOUNDS

Part 4. of subparagraph (d) of paragraph (1) of rule 1200-3-18-.24 Gasoline Dispensing Facilities – Stage I and Stage II Vapor Recovery is amended by substituting the word ‘fueling’ in place of the word ‘refueling’ and adding the following language (“...or, at an automobile or light-duty truck assembly plant, motor vehicles that are fitted with an onboard vapor recovery system.”) to the end of part 4, so that, as amended, the part shall read:

4. Dispenses gasoline for only fueling aircraft, marine vessels, or, at an automobile or light-duty truck assembly plant, motor vehicles that are fitted with an onboard vapor recovery system.

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2002. (05-29)

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

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the Mt. Moriah Baptist Church, 225 Daugherty Street, Jackson, TN 38301, on July 22nd, 2002 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

<u>Site Number</u>	<u>Site Name</u>
Madison County (57)	
57-513	Iselin Rail Yard Jackson, TN

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2002. (05-27)

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

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the Cleveland Municipal Building, Council Room, 2nd Floor, 190 Church Street, Cleveland, TN 37311, on July 18th, 2002 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

<u>Site Number</u>	<u>Site Name</u>
Bradley County (06)	
06-509	Cleveland Plastics Cleveland, TN

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2002. (05-26)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY

There will a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Public Water Systems and Drinking Water Quality Chapter 1200-5-1 pursuant to T.C.A. 68-221-701 et seq. The proposed amendments were drafted primarily to incorporate into state regulations the revisions to the Long Term 1 Enhanced Surface Water Treatment Rules promulgated by the EPA January 14, 2002.

Fleming Training Center
2022 Blanton Drive
Main Auditorium
Murfreesboro, TN
10:00 AM DST
July 23, 2002

Written comments will be also considered if received at the Division of Water Supply, 401 Church Street, Nashville, TN 37243-1549 by the close of business July 30, 2002.

Individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone, or other means and should be made no less than ten days prior to the (scheduled meeting date) (date such party intends to review such filings), to allow time to provide such aid or service. Contact the ADA Coordinator, 401 Church Street, 7th Floor L & C Tower, Nashville, TN 37243, 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

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

SUBSTANCE OF THE PROPOSED RULES

CHAPTER 1200-5-1
PUBLIC WATER SYSTEMS

AMENDMENTS

Paragraph 37 of Rule 1200-5-1-.04 Definitions is amended by deleting the existing paragraph in its entirety and by the addition of revised language so that as amended the paragraph (37) shall read:

- (37) "Ground water under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Paragraph (5) only of Rule 1200-5-1-.17 Operation and Maintenance Requirements is amended by deleting the existing language in its entirety and by the addition of new language so that as amended it shall read:

- (5) All systems submitting samples for microbiological examination to the State laboratory must submit said sample in the bottle(s) provided by the State and return the samples to the proper State laboratory in the shipping carton provided by the State. The cost of postage for shipping the sample to the proper State laboratory shall be paid by the supplier of water. All samples submitted for microbiological examination must be collected and mailed to arrive at the proper State laboratory not later than Thursday noon of any week. Thirty hours is the limit allowed from the time of collection to the time of examination at the proper State laboratory.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Entry 6 only of Table 1200-5-1-.19(2) of Rule 1200-5-1-.19 Notification of Customers is amended by deleting the existing language in its entirety and substituting revised language so that as amended it shall read:

6. Violation of the Surface Water Treatment Rule (SWTR) 1200-5-1-.31, Interim Enhanced Surface Water Treatment Rule (IESWTR) or Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit (as identified in Appendix A) where the department determines after consultation that a tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Subpart (ii) only of 1200-5-1-.19(3)(b)3 of Rule 1200-5-1-.19 Notification of Customers is amended by deleting the existing language in its entirety and by the addition of revised language so that as amended it shall read:

- (ii) Violation of the SWTR, IESWTR or LT1ESWTR treatment technique requirement (1200-5-1-.31) resulting from a single exceedance of the maximum allowable turbidity limit.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Endnote 6 only of Appendix A Rule 1200-5-1-.19 Notification of Customers is amended by the deletion of the existing language in its entirety and by the addition of revised language so that as amended Endnote 6 shall read:

- ⁶ Systems with treatment technique violations involving a single exceedance of a maximum turbidity limit under the Surface Water Treatment Rule, Interim Enhanced Surface Water Treatment Rule, or the Long Term 1 Enhanced Surface Water Treatment Rule (1200-5-1-.31) are required to consult with the Department within 24 hours after learning of the violation. Based on this consultation, the department may subsequently decide to elevate the violation to Tier 1. If a system is unable to make contact with the department in the 24-hour period, the violation is automatically elevated to Tier 1.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Entries A and B only of Appendix B of Rule 1200-5-1-.19 Notification of Customers is amended by deleting the existing language in its entirety and by the addition of revised language so that as amended it shall read.

APPENDIX B TO 1200-5-1-.19. –STANDARD HEALTH EFFECTS FOR PUBLIC NOTIFICATION

Contaminant	MCLG ¹ mg/l	MCL ² mg/l	Standard health effects language for public notification
National Primary Drinking Water Regulations (NRDWR):			
A. Microbiological Contaminants			
1a. Total coliform	Zero	See foot note ³	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
1b. Fecal coliform/ <u>E.coli</u>	Zero	Zero	Fecal coliforms and E.coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.
2a. Turbidity (MCL) ⁴	None	1 NTU ^{5/2} NTU	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
2b. Turbidity (SWTR TT) ⁶ (surface water and ground water under the direct influence)	None	TT ⁷	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
2c. Turbidity (IESWTR and LT1ESWTR TT) ⁸ (surface water and ground water under the direct influence of surface water)	None	TT	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
B. Surface Water Treatment Rule (SWTR) and Long Term 1 (LT1ESWTR) and Interim Enhanced Surface Water Treatment Rule (IESWTR) violations:			
3. Giardia lamblia (SWTR/ IESWTR/LT1ESWTR)	Zero	TT ¹⁰	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
4. Viruses (SWTR/IESWTR/LT1ESWTR).			.
5. Heterotrophic plate count (HPC) bacteria ⁹ (SWTR/(IESWTR/LT1ESWTR).			.
6. Legionella (SWTR/IESWTR/LT1ESWTR).			.
7. Cryptosporidium (IESWTR/LT1ESWTR)			.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

Endnotes to Appendix B to Rule 1200-5-1-.19 Notification of Customers is amended by the deleting of the existing language and by the addition of revised language so that as amended the endnotes shall read:

Appendix B-Endnotes

1. MCLG – Maximum contaminant level goal.
2. MCL – Maximum contaminant level.
3. For water systems analyzing at least 40 samples per month, no more than 5.0 percent of the monthly samples may be positive for total coliforms. For systems analyzing fewer than 40 samples per month, no more than one sample per month may be positive for total coliforms.
4. There are various regulations that set turbidity standards for different types of systems, including 1200-5-1-.08 and 1200-5-1-.31. The MCL for the monthly turbidity average is 1 NTU; the MCL for the 2-day average is 2 NTU for systems that are required to filter but have not yet installed filtration.
5. NTU – Nephelometric turbidity unit.
6. There are various regulations that set turbidity standards for different types of systems, including 1200-5-1-.08 and 1200-5-1-.31. Systems subject to the Surface Water Treatment Rule (both filtered and unfiltered) may not exceed 5 NTU. In addition, in filtered systems, 95 percent of samples each month must not exceed 0.5 NTU in systems using conventional or direct filtration and must not exceed 1 NTU in systems using slow sand or diatomaceous earth filtration or other filtration technologies approved by the department.
7. TT – Treatment technique.
8. There are various regulations that set turbidity standards for different types of systems, including 1200-5-1-.08 and 1200-5-1-.31. For systems subject to the IESWTR (systems serving at least 10,000 people, using surface water or ground water under the direct influence of surface water), that use conventional filtration or direct filtration, after January 1, 2002, the turbidity level of a system's combined filter effluent may not exceed 0.3 NTU in at least 95 percent of monthly measurements, and the turbidity level of a system's combined filter effluent must not exceed 1 NTU at any time. For systems subject to the LT1EWSTR (systems serving fewer than 10,000 people, using surface water or ground water under the direct influence of surface water), that use conventional filtration or direct filtration, after January 14, 2005, the turbidity level of a system's combined filter effluent may not exceed 0.3 NTU in at least 95 percent of monthly measurements, and the turbidity level of a system's combined filter effluent must not exceed 1 NTU at any time. Systems subject to the IESWTR/LT1EWSTR using technologies other than conventional, direct, slow sand, or diatomaceous earth filtration must meet turbidity limits set by the division.
9. The bacteria detected by heterotrophic plate count (HPC) are not necessarily harmful. HPC is simply an alternative method of determining disinfectant residual levels. The number of such bacteria is an indicator of whether there is enough disinfectant in the distribution system.
10. SWTR and IESWTR/LT1EWSTR treatment technique violations that involve turbidity exceedances may use the health effects language for turbidity instead.
11. These arsenic values are effective January 23, 2006. Until then the MCL is 0.05 mg/L and there is no MCLG.
12. Millions fibers per liter.
13. Action Level = 0.015 mg/L.
14. Action Level = 1.3 mg/L.
15. Millirems per year.
16. Picocuries per liter.
17. Surface water systems and ground water systems under the direct influence of surface water are regulated under 1200-5-1-.31. Subpart H community and non-transient non-community systems serving ³10,000 must comply with DBP MCLs and disinfectant maximum residual disinfectant levels (MRDLs) beginning January 1, 2002. Subpart H transient non-community systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL beginning January 1, 2002. All other community and non-transient non-community water systems must meet the MCLs and MRDLs beginning January 1, 2004. Subpart H transient non-community systems serving fewer than 10,000 persons and systems using only ground water not under the influence

of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL beginning January 1, 2004.

18. The MCL of 0.10 mg/l for TTHMs is in effect until January 1, 2002, for Subpart H community water systems serving 10,000 or more. This MCL is in effect until January 1, 2004, for community water systems with a population of 10,000 or more using only ground water not under the influence of surface water. After these deadlines, the MCL will be 0.080 mg/l. On January 1, 2004, all systems serving less than 10,000 will have to comply with the new MCL as well.
19. The MCL for total trihalomethanes is the sum of the concentrations of the individual trihalomethanes.
20. The MCL for haloacetic acids is the sum of the concentrations of the individual haloacetic acids.
21. MRDLG – Maximum residual disinfectant level goal.
22. MRDL – Maximum residual disinfectant level.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Paragraph (1) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by the addition of a new subparagraph (f) so that as amended it shall read:

- (f) Subpart H systems that did not conduct optional monitoring under 1200-5-1-.31 (8) [Profiling and Benchmarking] because they served fewer than 10,000 persons in 2002, but serve more than 10,000 persons prior to January 14, 2005, must comply with the filtration, disinfection, and treatment technique requirements of 1200-5-1-.31, or meet the criteria to avoid filtration. They shall also comply with the individual filter effluent turbidity monitoring, and other monitoring and reporting requirements of Rule 1200-5-1-.31. These systems must also consult with the state to establish a disinfection benchmark. A system that decides to make a significant change to its disinfection practice as described in 1200-5-1-.31(8)(e) must obtain approval from the department prior to making such change.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Subparagraph (c) only of paragraph (4) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the existing language in its entirety, and by the addition of new language so that as amended it subparagraph (c) shall read:

- (c) By December 31, 2001, subpart H systems that use conventional or direct filtration and serve 10,000 or more persons and by January 14, 2005, subpart H systems serving fewer than 10,000 persons shall employ filtration treatment that:

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Part 4 only of subparagraph (c) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting Part 4 in its entirety and by the addition of revised language so that as amended it shall read:

4. In addition to monitoring required by parts 1, 2, and 3 of this rule a subpart H system serving 10,000 or more persons using conventional filtration treatment or direct filtration must conduct continuous

monitoring of turbidity for each individual filter using an approved method in 1200-5-1-.31(5)(a) and must calibrate turbidimeters using the procedure specified by the manufacturer. Systems must record the results of individual filter monitoring every 15 minutes. In addition to monitoring required by parts 1, 2, and 3 of this rule by January 14, 2005, a subpart H system serving fewer than 10,000 persons using conventional filtration treatment or direct filtration must conduct continuous monitoring of turbidity for each individual filter using an approved method in 1200-5-1-.31(5)(a) and must calibrate turbidimeters using the procedure specified by the manufacturer. Systems must record the results of individual filter monitoring every 15 minutes.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Part 4 only of subparagraph (b) of paragraph (6) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting part 4 only and by the addition of new language so that as amended part 4 shall read:

4. In addition to the reporting and recordkeeping requirements in 1200-5-1-.31(6)(b) 1, 2, and 3, water systems serving 10,000 or more persons that provides conventional filtration treatment or direct filtration must report monthly to the State the information specified in part 4 beginning January 1, 2002. In addition to the reporting and recordkeeping requirements in 1200-5-1-.31(6)(b) 1., 2., and 3., a public water system serving fewer than 10,000 persons that provides conventional filtration treatment or direct filtration must report monthly to the State the information specified in part 4 beginning January 14, 2005. In addition to the reporting and recordkeeping requirements in 1200-5-1-.31(6), a public water system serving 10,000 or more persons that provides filtration approved under 1200-5-1-.31(4)(d) must report monthly to the State the information specified in subpart (i) beginning January 1, 2002. In addition to the reporting and recordkeeping requirements in 1200-5-1-.31(6), a public water system serving fewer than 10,000 persons that provides filtration approved under 1200-5-1-.31(4)(d) must report monthly to the State the information specified in subpart (i) beginning January 14, 2005. The reporting in subpart (i) of this section is in lieu of the reporting specified in 1200-5-1-.31(6)(b)1.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

AMENDMENTS

Subparagraph (a) only of Paragraph (8) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the existing language in its entirety and by the addition of revised language so that as amended subparagraph (a) shall read:

- (a) Subpart H public water systems serving 10,000 or more persons must conduct monitoring for haloacetic acids and trihalomethanes or conduct disinfection profiling beginning with the effective date of this rule. By January 14, 2005, subpart H public water systems must develop a disinfection profile unless the department determines it is not necessary. Those systems that exceed 0.064 mg/L of total trihalomethanes or 0.048 mg/L of total haloacetic acids annual arithmetic average based on four quarters of data must calculate disinfection profiles. Systems that must calculate profiles and that are planning changes to the disinfection process must also calculate disinfection benchmarks and submit the benchmark calculations with engineering plans for departmental approval prior to making any process changes. Sampling, analytical methods, frequency of sampling, and sample locations must be in accordance with procedures described in 1200-5-1-.36. Disinfection profiles and benchmarks must be determined by calculating daily inactivation ratios in accordance with departmental and EPA rules. Systems may elect to calculate

profiles in lieu of conducting trihalomethane and haloacetic acid monitoring for the purpose of complying with the disinfection and filtration rule.

Authority: T.C.A. §§68-221-701 et. seq., 68-221-704 and T.C.A. 4-5-202.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2002. (05-28)

TENNESSEE STATE BOARD OF EQUALIZATION - 0600

There will be a hearing before the Tennessee State Board of Equalization to consider the amendment of rules pursuant to Tenn. Code Ann. §§67-1-305. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-204 and will take place in Room 29 of the Legislative Plaza, Nashville, Tennessee, at 10:30 a.m. on the 12th day of July, 2002.

Any individuals with disabilities who wish to participate in these proceedings should contact the Board to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Board's ADA Coordinator, Elaine Driver, at Ste. 1400, 505 Deaderick St., Nashville, TN 37243-0261 and tele. no. 615/741-6753.

For a copy of this notice of rulemaking hearing, contact: Kelsie Jones, Ste. 1700, 505 Deaderick St., Nashville, TN 37243-0280, and tele. no. 615/401-7883.

SUBSTANCE OF PROPOSED AMENDMENT

CHAPTER 0600-6 AGENT REGISTRATION

Chapter 0600-6 is amended by adding the following new rule:

0600-6-.05 CONTINUING EDUCATION. As a prerequisite to renewal of an agent registration the agent shall present evidence satisfactory to the Board of having obtained, during the renewal period, education consisting of at least twenty (20) classroom hours of instruction approved by the Panel and the Board. Courses for which continuing education credit is recognized by the Tennessee Real Estate Appraiser Commission shall qualify for credit under this rule.

Authority: T.C.A. §§67-1-305 and 67-5-1514.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2002. (05-30)

**THE DEPARTMENT OF HEALTH - 1200
DIVISION OF HEALTH RELATED BOARDS
BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS**

There will be a hearing before the Tennessee Board of Alcohol and Drug Abuse Counselors to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 68-24-605. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 4th day of September, 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 1200-30-1-.04, Qualifications for Licensure, is amended by deleting part (1) (d) 4. in its entirety and is further amended by adding the following language as new subparagraphs (1) (e) and (2) (d):

- (1) (e) An applicant shall successfully complete the examinations as required in Rule 1200-30-1-.08. The applicant shall also provide to the Board an authorization for release of examination scores along with his/her application.
- (2) (d) An applicant shall successfully complete the jurisprudence examination as required in Rule 1200-30-1-.08.

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

Rule 1200-30-1-.05, Licensure Process, is amended by deleting part (1) (a) 11. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (1) (b) 12., so that as amended, the new parts (1) (a) 11. and (1) (b) 12. shall read:

- (1) (a) 11. An applicant shall successfully complete the examinations as required in Rule 1200-30-1-.08. The applicant shall be admitted to the first regularly scheduled written exam that occurs forty-five (45) days or more after the applicant has been approved.
- (1) (b) 12. An applicant shall successfully complete the jurisprudence examination as required in Rule 1200-30-1-.08.

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

Rule 1200-30-1-.08, Examinations, is amended by deleting the introductory sentence in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new introductory sentence and the new paragraph (3) shall read:

1200-30-1-.08 EXAMINATIONS. In addition to having filed an application, an individual seeking licensure by examination shall be required to pass the Board's written, oral, and jurisprudence examinations. In addition to having filed an application, an individual seeking licensure by reciprocity shall be required to pass the Board's jurisprudence examination.

- (3) Jurisprudence Examination. All applicants for licensure must successfully complete the Board's jurisprudence examination as a prerequisite to licensure.
 - (a) Applicants for licensure by examination shall be scheduled to take the jurisprudence examination concurrently with their oral examination.
 - (b) Applicants for licensure by reciprocity shall be scheduled to take the jurisprudence examination on days that oral examinations are given to applicants for licensure by examination.
 - (c) There is no fee for the jurisprudence examination.
 - (d) The scope and content of the examination shall be determined by the Board but limited to statutes and regulations governing the practice of alcohol and drug abuse counselors.
 - (e) The format of the examination shall be "open-book."
 - (f) Correctly answering ninety percent (90%) of the examination questions shall constitute a passing score and successful completion of the jurisprudence exam. Applicants who fail to achieve a passing score on the examination may apply to retake it by written request to the Board Administrative Office as provided in paragraph (4).

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

Rule 1200-30-1-.08, Examinations, is amended by adding the following language to newly numbered paragraph (4) as new subparagraph (4) (c) and is further amended by deleting newly numbered paragraph (5) in its entirety and substituting instead the following language, so that as amended the new subparagraph (4) (c) and the new paragraph (5) shall read:

- (4) (c) Jurisprudence Examination
 - 1. Applicants who fail to pass the jurisprudence examination may apply to the Board for re-examination.
 - 2. It is not required that an applicant repeat the written or oral examinations in order to repeat the jurisprudence examination.
 - 3. Should the applicant fail a second jurisprudence examination, the Board shall deny licensure pursuant to rule 1200-30-1.07. In such event, the applicant must then retake the written and oral examinations if the applicant reapplies.
- (5) If an applicant neglects, fails, or refuses to take any of the required examinations or fails to pass the examinations within twelve (12) months after being approved, the application will be deemed abandoned. Such applicant may

thereafter make a new application accompanied by the required fee. The applicant shall meet the requirements in effect at the time of the new application.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of May, 2002. (05-16)

**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 new 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 Magnolia 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 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 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, visit the Department of Health's web page on the Internet at www.state.tn.us/health and click on "rulemaking hearings" or 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.

SUMMARY OF PROPOSED RULES

**CHAPTER 1200-8-32
STANDARDS FOR END STAGE RENAL DISEASE CLINICS**

Public Acts 2001, Chapter 438, House Bill 1385 (T.C.A. §§68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, 68-11-213 and 68-11-216) requires that renal dialysis clinics be licensed and regulated by the Department of Health.

NEW RULES

TABLE OF CONTENTS

1200-8-32-.01	Definitions	1200-8-32-.08	Building Standards
1200-8-32-.02	Licensing Procedures	1200-8-32-.09	Life Safety
1200-8-32-.03	Disciplinary Procedures	1200-8-32-.10	Infectious and Hazardous Waste
1200-8-32-.04	Administration	1200-8-32-.11	Records and Reports
1200-8-32-.05	Admissions, Discharges, and Transfers	1200-8-32-.12	Patient Rights
1200-8-32-.06	Basic Required Services	1200-8-32-.13	Procedures for the Withholding of Resuscitative Services
1200-8-32-.07	Reserved	1200-8-32-.14	Disaster Preparedness

Rule 1200-8-32-.01 Definitions—This rule list forty-four (44) words with their definitions.

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

Rule 1200-8-32-.02 Licensing Procedures—This rule requires all renal dialysis clinics to be licensed and explains the application process. Also, change of ownership, including a change in a controlling interest, must be reported and the circumstances constituting a change of ownership are explained in the rule.

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, and 68-11-216.*

Rule 1200-8-32-.03 Disciplinary Procedures—This rule explains the reasons for suspension or revocation of a facility’s license and factors used in determining sanctions. Also, the requirement of a plan of correction for deficiencies cited in the facility is explained and the procedure to follow if the facility desires to aggrieve the decision or action taken by the department.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, and 68-11-209.*

Rule 1200-8-32-.04 Administration—This rule explains the following requirements: governing body, personnel files, policies and procedures, civil rights, infection control, payment agreements, dialysis training curricula and instructors, training program for dialysis technicians, skills competency checklist for dialysis technician trainee, performance improvement, and water treatment and reuse.

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

Rule 8-32-.05 Admissions, Discharges, and Transfers—This rule explains the requirements for admission, discharge, and transfer of patients at their facility.

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

Rule 1200-8-32-.06 Basic Services—This rule lists the requirements for the following: medical staff, home hemo-dialysis (reserved), nursing, pharmaceutical, laboratory, environmental, medical records, nutrition, and social services.

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

Rule 1200-8-32-.07 Reserved.

Rule 1200-8-32-.08 Building Standards—This rule lists the code manuals required for new construction and renovations and the construction plan review process requirements. Also, the requirements for submission of the following drawings and specifications: architectural, structural, mechanical, and electrical.

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

Rule 1200-8-32-.09 Life Safety—This rule requires the facilities to adopt a written fire control plan, provide fire protection by the elimination of fire hazards, and by installation of necessary fire fighting equipment. All fires which result in a response by the local fire department shall be reported to the department within five (5) business days. Also, the physical environment of the facility shall be maintained in a safe, clean, and sanitary manner.

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

Rule 1200-8-32-.10 Infectious and Hazardous Waste—This rule requires each renal dialysis clinic to develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous wastes. This rule defines types of infectious waste and the requirements for packaging, storage, and disposal of infectious and hazardous waste.

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

Rule 1200-8-32-.11 Records and Reports—This rule requires the renal dialysis clinics to report each case of communicable disease to the local county health officer and report unusual incidents to the Department. Unusual incidents to report to the Department are listed in this rule. Also, a list of records and reports to retain in the facility for thirty-six (36) months are listed in this rule.

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

Rule 1200-8-32-.12 Patient Rights—This rule lists the rights of each patient.

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

Rule 1200-8-32-.13 Procedures for the Withholding of Resuscitative Services—This rule lists the requirements of procedures for the withholding of resuscitative services.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-224.

Rule 1200-8-32-.14 Disaster Preparedness—This rule requires the administration of every facility to have the following written disaster plans and exercised annually prior to the month listed in each plan: fire safety procedures, tornado/severe weather procedures, bomb threat procedures, floods procedures, severe cold weather and severe hot weather procedures, and earthquake disaster procedures. All facilities shall participate in the Tennessee Emergency Management local/county emergency plan on an annual basis. In the event of natural disaster or electrical power failure, no new dialysis procedures shall be begun, and dialysis procedures in progress shall be brought to conclusion as soon as possible.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of May, 2002. (05-23)

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

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 15th Floor, Commissioner's Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30 p.m. CDT on Wednesday, July 17, 2002.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5570.

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

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

**CHAPTER 1240-1-50
STANDARD OF NEED/INCOME**

AMENDMENTS

Rule 1240-1-50-.20 is amended by deleting the Rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read:

1240-1-50-.20 STANDARD OF NEED/INCOME. The following table shows the maximum income level, consolidated standard of need, and the possible standard payment amounts and differential grant payment amounts (maximum payment per assistance group size) to be used in the Families First program to determine eligibility and amount of payment.

- (1) Families First Standards
 - (a) Consolidated Need Standard (CNS). The Department has developed a consolidated standard of need based on size of the assistance group (AG), which indicates the amount of income the assistance group would need to meet subsistence living costs according to allowances set by the state for items including

- food, clothing, shelter and utilities, transportation, medical care, personal incidentals, and school supplies. The CNS is used as the basis for determining the gross income standard (GIS), the standard payment amount (SPA), and the Differential Grant Payment Amount (DGPA).
- (b) **Gross Income Standard (GIS).** This standard is set by federal law at 185% of the consolidated need standard. If the gross countable income of an assistance group exceeds this standard, the AG is not eligible for Families First.
 - (c) **Standard Payment Amount (SPA).** Tennessee does not meet 100% of need as defined by the consolidated need standard. Rather, a maximum payment by family size, dependent on funds available, is paid, except in the instances specified in subparagraph (e) below.
 - (d) **Differential Grant Payment Amount (DGPA).** A Families First Assistance Group which meets any one of the criteria for exemption from Time Limited Assistance as specified in 1240-1-51-.01(4)(a) through (d), will be eligible for a grant based on the Differential Grant Payment Amount (DGPA), which is a maximum payment by family size, dependent on funds available, except in the instances specified in subparagraph (e) below.
 - (e) **Family Benefit Cap**
 1. No additional benefits will be issued due to the birth of a child when the birth occurs more than ten (10) calendar months after the later of:
 - (i) the date of application for Families First, or
 - (ii) the date of implementation of the Families First program (September 1, 1996), as provided by Public Chapter 950 (1996), unless
 - (I) the child was conceived as the result of verified rape or incest;
 - (II) the child is the firstborn (including all children in the case of a multiple birth) of a minor included in the Families First grant who becomes a first-time minor parent;
 - (III) the child does not reside with his/her parent;
 - (IV) the child was conceived in a month the AG was not receiving Families First;
 - (V) the child was already born prior to the later of the date of application for Families First or the date of implementation of Families First, and the child has entered or returned to the home; or
 - (VI) when a Families First case is closed, through a deliberate action, without good cause, and the family reapplies within ninety (90) days.
 2. The additional child will be included in the need standard for the purpose of determining Families First eligibility. The income of the child, including child support, will be applied against the need standard in determining the Families First payment amount for the family. The child will be considered a Families First recipient for all other purposes, including Medicaid/TennCare coverage.
 3. The family benefit cap will not apply to a subsequent period of eligibility for families who reapply for Families First subsequent to receipt for an eighteen (18) month eligibility period during which the child

was born, as long as the reason for prior case closure was other than a failure to comply with work or child support enforcement requirements or other Personal Responsibility Plan provisions, and the parent/caretaker had cooperated with the Department as defined in departmental policies for the Families First program.

(f) An assistance payment is determined as follows:

1. If the assistance group’s net income (after allowable exclusions and deductions) equals or exceeds their consolidated need, the assistance group is not eligible.
2. If the assistance group’s net income is less than their consolidated need, the monthly grant amount is the smaller of a maximum payment amount by family size (SPA or DGPA, as appropriate) or the deficit if it is ten dollars (\$10) or more. If the deficit is one dollar (\$1) - nine dollars (\$9), the AG is eligible for Medicaid (TennCare) only, and is deemed to be a Families First recipient group.

In the case of an AG receiving Families First because one or both parents are unemployed, if the Principal Wage Earner (PWE) receives Unemployment Compensation (UC) the UC benefit is deducted from the grant amount determined after deducting all other countable income from the CNS, to determine the actual amount of Families First payment for the AG.

3. The minimum monthly grant which can be paid is ten dollars (\$10).

(g) Families First Need/Payment Standards

1. Tables

TABLE I

Number of Persons in Assistance Group	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	944	1338	1589	1658	2009	2020	2205	2226	2442	2459
Consolidated Need Standard	510	723	859	896	1086	1092	1192	1203	1320	1329
Maximum Payment (SPA)	95	142	185	226	264	305	345	386	425	467

Minimum Families First Payment is \$10 per Month for any Assistance Group

Number of Persons in Assistance Group	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	2538	2607	2668	2720	2764	2806	2842	2873	2899	2923
Consolidated Need Standard	1372	1409	1442	1470	1494	1517	1536	1553	1567	1580
Maximum Payment (SPA)	508	549	589	630	670	711	750	790	831	871

Minimum Families First Payment is \$10 per Month for any Assistance Group

TABLE II

Number of Persons in Assistance Group	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	944	1338	1589	1658	2009	2020	2205	2226	2442	2459
Consolidated Need Standard	510	723	859	896	1086	1092	1192	1203	1320	1329
Maximum Payment (DGPA)	140	192	232	242	291	305	345	386	425	467

Minimum Families First Payment is \$10 per Month for any Assistance Group

Number of Persons in Assistance Group	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	2538	2607	2668	2720	2764	2806	2842	2873	2899	2923
Consolidated Need Standard	1372	1409	1442	1470	1494	1517	1536	1553	1567	1580
Maximum Payment (DGPA)	508	549	589	630	670	711	750	790	831	871

Minimum Families First Payment is \$10 per Month for any Assistance Group

2. The Families First standard payment amount (maximum payment) for an assistance group of three (3) persons represents 21.5% of the consolidated need for an assistance group of that size. The Families First maximum differential grant payment amount for an assistance group of three (3) persons represents 27.0% of the consolidated need for an assistance group of that size. The payments for groups composed of different numbers of recipients represent an upward or downward adjustment of the percentage in the preceding sentences which is necessary to maintain the payment at a level not more or less than that paid in fiscal year 2001-2002.

Authority: TCA §§ 4-5-201 et seq.; 4-5-209; 71-1-105; 71-3-151—71-3-165, 71-3-154(i); 71-3-155(e)-(g); Senate Bill 3165 /House Bill 3212 section 10, Item 22; (2002); 42 USCA §§ 601 et seq.; 45 CFR 233.20; 42 USCA § 1315.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2002. (05-31)

TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendment to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-18-205, 63-18-211, and Public Chapter 251 of the Public Acts of 2001. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 8th day of August, 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 0870-1-.01 Definitions, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, and is further amended by adding the following language as two (2) new, appropriately numbered paragraphs, so that as amended, the new paragraph (3) and the two (2) new, appropriately numbered paragraphs shall read:

- (3) Application - As used in this rule, "application" means the application form approved by the Board and shall also include, when applicable the following: Current signed, passport type photograph, official transcript from educational institution(s), verification of successful completion of the N.C.B.T.M.B.'s National Certification Examination or any other Board-approved examination, two (2) original letters of professional recommendation, and certification/licensure from other state boards.
- () N.C.B.T.M.B. – The National Certification Board for Therapeutic Massage and Bodywork.
- () National Certification Examination – The examination required for national certification from the N.C.B.T.M.B.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-205, 63-18-211, and Public Chapter 251 of the Public Acts of 2001.

Rule 0870-1-.04 Licensure and Provisional Licensure Process, is amended by deleting subparagraph (1) (f) and part (2) (d) 1. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) and the new part (2) (d) 1. shall read:

- (1) (f) It is the applicant's responsibility to do the following in a timely manner:
 - 1. Request that a transcript from one (1) or more post secondary academic institution(s) approved by the Tennessee Higher Education Commission or its equivalent in another state(s) be submitted directly

from the institution(s) to the Board Administrative Office. The transcript must show that the applicant has successfully completed a massage, bodywork, and/or somatic therapy curriculum(s) consisting of no less than five hundred (500) classroom hours and carry the official seal of the institution(s).

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

- 2. Request that verification of having successfully completed the National Certification Examination, as provided in Rule 0870-1-.08, be submitted directly from the N.C.B.T.M.B. or its successor organization to the Board Administrative Office; or
 - 3. Request that verification of having successfully completed a Board-approved examination, as provided in Rule 0870-1-.08, be submitted directly from such exam's testing agency to the Board Administrative Office.
- (2) (d) 1. Have the documentation required by parts 0870-1-.04 (1) (f) 2. or 3. provided to the Board Administrative Office; and

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-18-205, 63-18-211, and Public Chapter 251 of the Public Acts of 2001.*

Rule 0870-1-.08 Reserved, is amended by deleting the catchline and substituting instead the following catchline, and is further amended by adding the following language as new paragraphs (1), (2), (3), and (4):

0880-11-.08 EXAMINATION.

- (1) With the exception of applicants qualifying pursuant to Rule 0870-1-.04 (2) or Rule 0870-1-.05, all persons intending to apply for licensure must successfully complete one (1) of the competency examinations adopted by the Board pursuant to this Rule as a prerequisite to licensure. Such examinations must be completed prior to application for licensure. Evidence of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in Rule 0870-1-.04.
- (2) Competency Examination - The Board accepts successful completion, as determined by the examining agency, of any one (1) of the following examinations:

- (a) The N.C.B.T.M.B.'s and/or its successor organization's National Certification Examination. - Application for, proof of having successfully completed a massage, bodywork, and/or somatic therapy curriculum(s) as provided in subparagraph 0870-1-.04 (1) (f), and fees necessary to take the National Certification Examination must be sent to the N.C.B.T.M.B. and not to the Board.
 - (b) Any other Board-approved examination - Application for, proof of having successfully completed a massage, bodywork, and/or somatic therapy curriculum(s) as provided in subparagraph 0870-1-.04 (1) (f), and fees necessary to take a Board-approved examination must be sent to such exam's testing agency and not to the Board.
- (3) Any applicant who does not successfully complete either competency examination on the third (3rd) attempt and every third (3rd) attempt thereafter must do the following prior to being authorized to take the examination again:
- (a) Successfully complete a review course, as approved by the Board; and
 - (b) After a three (3) month period from the date of his/her last examination administration, submit a new, completed application form, examination fee and accompanying documentation to the N.C.B.T.M.B. or to any other Board-approved examination's testing agency.
- (4) Education hours obtained as a result of compliance with subparagraph (3) (a) shall not be credited toward the continuing education hours required to be obtained in any renewal period pursuant to Rule 0870-1-.12.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-205, 63-18-211, and Public Chapter 251 of the Public Acts of 2001.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of May, 2002. (05-22)

BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-204, 63-6-224, 63-7-123, 63-19-106, and 63-26-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 19th 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, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0880-2-.14 Scope of Practice, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (10), so that as amended, the new catchline and the new paragraph (10) shall read:

0880-2-.14 SPECIFICALLY REGULATED AREAS AND ASPECTS OF MEDICAL PRACTICE.

- (10) Use of Laser Equipment - If any procedure encompassed within the definition of the practice of medicine contained in T.C.A. § 63-6-204 is to be performed by use of a laser it shall be performed, except as provided in T.C.A. § 63-26-102 (5) by use of a Food and Drug Administration (F.D.A.) approved laser beam process designated for permanent hair removal, by a licensed physician. A supervising physician may delegate to a nurse practitioner or a physician assistant, within the scope of practice of the nurse practitioner or physician assistant, authority to use laser equipment if the nurse practitioner or physician assistant have been properly trained for the type equipment being used and written protocols have been mutually developed and agreed upon.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-204, 63-7-123, 63-19-106, and 63-26-102.

Rule 0880-5-.05 Educational Course, Approval and Curriculum for Limited Certification, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) Course approval
- (a) To be approved to provide limited radiological certification training the educational course director must obtain Board approval by submitting the following information to the Board Administrative Office:
1. Location of the course; and
 2. Names of physicians, A.R.R.T. technologists, physicists, or other work qualified personnel who are acting as instructors. Under no circumstances shall an individual with limited certification as a x-ray operator teach or otherwise provide limited radiological certification training; and
 3. Course description and curriculum.
- (b) If the substance of the requirements in subparagraph (1) (a) changes the course provider must submit, within fifteen (15) days of the change, a new request for course approval. Course approval may be withdrawn for failure to timely submit the new request and/or for changes that result in the course no longer meeting the requirements of subparagraph (1) (a).

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

Rule 0880-5-.06 Examinations for Certification, is amended by deleting part (2) (a) 3. in its entirety and substituting instead the following language, so that as amended, the new part (2) (a) 3. shall read:

- (2) (a) 3. No applicant shall be allowed access to the limited certification examination(s) until clinical competency has been certified in writing, signed by the supervisor who provided the training pursuant to rule 0880-5-.05 (2)(c) 2.

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 22nd day of May, 2002. (05-18)

**BOARD OF MEDICAL EXAMINERS - 0880
ADVISORY COMMITTEE FOR ACUPUNCTURE**

There will be a hearing before the Tennessee Board of Medical Examiners and its Advisory Committee for Acupuncture to consider the promulgation of new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, et seq., 63-6-101, and 63-6-1001, et seq. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of 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

NEW RULES

CHAPTER 0880-12

GENERAL RULES AND REGULATIONS GOVERNING THE PRACTICE OF ACUPUNCTURISTS

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0880-12-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) ACAOM - The Accreditation Commission for Acupuncture and Oriental Medicine.
- (2) Administrative Office - The office of the administrator assigned to the Board and the Committee located on the First Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee 37247-1010.
- (3) ADS - An acupuncture detoxification specialist trained in, and who performs only, the five (5) points auricular detoxification treatment.
- (4) Board - Tennessee Board of Medical Examiners.
- (5) Committee – The Advisory Committee for Acupuncture.
- (6) Certificate or Certification - The document issued authorizing practice. Wherever these terms appear in this chapter of rules unless they are specifically designated by the language of the rule as applying only to limited certification, the terms apply to both limited and full certificate holders.
- (7) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Committee receives administrative support.
- (8) NADA - The National Acupuncture Detoxification Association.
- (9) NCCAOM - The National Certification Commission for Acupuncture and Oriental Medicine.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-1001, et seq.

0880-12-.02 SCOPE OF PRACTICE.

- (1) The scope of practice for all acupuncturists is governed by T.C.A. §§ 63-6-1001 (7).
- (2) The scope of practice for all acupuncture detoxification specialist is governed by T.C.A. §§ 63-6-1001 (3) and 63-6-1002 (b) (2) (B) and (D).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-1001, 63-6-1002, and 63-6-1004.

0880-12-.03 RESERVED.

0880-12-.04 ACUPUNCTURE CERTIFICATION PROCESS. To become certified in Tennessee a person must comply with one of the following sets of procedures and requirements:

- (1) Grandfathering – Any person is eligible to receive a certificate upon compliance with all subparagraphs contained in paragraph (2) except subparagraphs (e), (h), and (i) and upon further showing satisfactory proof of one (1) of the following:

- (a) Tennessee residency on January 1, 2001, and successful completion of an approved apprenticeship or tutorial program that meets NCCAOM standards.
 - 1. Tennessee Residency may be proven by submission of a copy of either a voter registration card indicating residency in Tennessee prior to January 1 2001, or a Tennessee driver license issued prior to January 1, 2001.
 - 2. All documentation to support the apprenticeship or tutorial program and how it meets NCCAOM standards must be sent directly from the program or NCCAOM to the Administrative Office.
- (b) Continuous practice of acupuncture in Tennessee since January 1, 2001, and having a license/certificate in good standing to practice acupuncture in another state immediately prior to practicing in Tennessee.
 - 1. Continuous practice in Tennessee since January 1, 2001 may be proven by submission of either of the following:
 - (i) Photocopies of paycheck(s), paycheck stub(s), or Internal Revenue Service (IRS) Forms W-2, 1099-Misc., or Schedules C or C-EZ for IRS Form 1040 to verify proof of income from the practice of acupuncture; or
 - (ii) Notarized letters from two (2) individuals other than family members attesting to the applicant's continuous practice.
 - 2. A certificate of licensure/certification in good standing in another state must be submitted directly from that state licensure/certification agency to the Administrative office and show a date of issuance prior to the date on which the applicant commenced practice in Tennessee.
- (2) Certification by diplomate status – An applicant for certification by diplomate status shall do the following:
 - (a) Request an application packet from the Administrative Office.
 - (b) Respond truthfully and completely to every question or request for information contained in the application form and submit it, along with all documentation and fees required by the form and rules, to the Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
 - (c) Submit a clear, recognizable, recently taken bust photograph which shows the full head, face forward from at least the top of the shoulder up.
 - (d) Submit evidence of good moral character. Such evidence shall be two (2) recent (within the preceding 12 months) original letters from medical professionals, attesting to the applicant's personal character and professional ethics on the signator's letterhead.
 - (e) Have submitted directly from the NCCAOM to the Administrative Office proof of current diplomate status in acupuncture.
 - (f) Disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.

2. The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 3. Loss or restriction of licensure/certification.
 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
 5. Failure of any licensure or certification examination.
- (g) Cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each licensing/certifying board of each state or country in which the applicant holds or has ever held a license/certificate to practice any profession that indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive. It is the applicant's responsibility to request this information be sent directly from each such licensing/certifying board to the Administrative Office.
- (h) Have proof of completion of a three (3) year post-secondary acupuncture training program or college acupuncture program sent directly from the training program or college the Administrative Office. This proof must also include the following:
1. Proof that the college or training program either:
 - (i) holds ACAOM accreditation; or
 - (ii) is in ACAOM candidacy status; or
 - (iii) meets ACAOM standards.
 2. Notation of successful completion or graduation from the acupuncture training program or college and carry the official seal of the institution.
- (i) Have proof of successful completion of a NCCAOM-approved clean needle technique course sent directly from the courser provider to the Administrative Office.
- (j) Submit the fees required in Rule 0880-12-.06.
- (3) Certification by Reciprocity – To become certified in Tennessee based on licensure or certification in another state, an applicant must
- (a) Comply with all the requirements of paragraph (2) of this rule except subparagraph (e); and
 - (b) Have proof of licensure or certification in a state that has licensure or certification requirements substantially equivalent, as determined by the Committee, to the requirements of T.C.A. §§ 63-6-1001, et seq., and this chapter of rules sent directly from the state licensing/certifying agency to the Administrative Office.
- (4) Application review and certification decisions shall be governed by Rule 0880-12-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-101, 63-6-1004, and 63-6-1005.

0880-12-.05 ADS CERTIFICATION PROCESS.

- (1) To be issued a limited acupuncture certification as an ADS in Tennessee a person must comply with the following sets of procedures and requirements:
 - (a) Request an application packet from the Administrative Office.
 - (b) Respond truthfully and completely to every question or request for information contained in the application form and submit it, along with all documentation and fees required by the form and rules, to the Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
 - (c) Submit a clear, recognizable, recently taken bust photograph which shows the full head, face forward from at least the top of the shoulder up.
 - (d) Submit evidence of good moral character. Such evidence shall be two (2) recent (within the preceding 12 months) original letters from medical professionals, attesting to the applicant's personal character and professional ethics on the signator's letterhead.
 - (e) Have submitted directly from the training program to the Administrative Office documentation of successful completion of a board-approved training program in auricular detoxification acupuncture. To become board-approved, the training program must meet or exceeds standards of training set by NADA.
 - (f) Have submitted directly from an employing institution, facility, or entity to the Administrative Office satisfactory proof of the practice of auricular detoxification treatment in a hospital, clinic, or treatment facility which provides comprehensive alcohol and substance abuse or chemical dependency services including counseling. Accompanying this proof must also be a certification from the supervising certified acupuncturist or medical director of the institution, facility, or entity attesting to employment and acceptance of supervisory responsibility.
 - (g) Disclose the circumstances surrounding any of the following:
 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 2. The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 3. Loss or restriction of licensure/certification.
 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
 5. Failure of any licensure or certification examination.
 - (h) Cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each licensing/certifying board of each state or country in which the applicant holds or has ever held a license/certificate to practice any profession that indicates the applicant holds

or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive. It is the applicant's responsibility to request this information be sent directly from each such licensing/certifying board to the Administrative Office.

- (i) Submit the fees required in Rule 0880-12-.06.
- (2) Application review and limited certification decisions shall be governed by Rule 0880-12-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-101, 63-6-1002, 63-6-1004, and 63-6-1005.

0880-12-.06 FEES. ALL FEES PROVIDED FOR IN THIS RULE ARE NON-REFUNDABLE.

	Acupuncturist	Acupuncture Dextoxification Specialist
(1) Application fee to be submitted at the time of application.	\$500.00	\$ 75.00
(2) Initial certification fee to be submitted at the time of application.	\$250.00	\$ 25.00
(3) Biennial renewal fee to be submitted at the time of application and every two (2) years when certification renewal is due.	\$500.00	\$100.00
(4) Late renewal fee.	\$100.00	\$ 50.00
(5) Certification reinstatement and / or restoration fee.	\$100.00	\$ 50.00
(6) Duplication of Certificate fee.	\$ 25.00	\$ 10.00
(7) Biennial state regulatory fee to be submitted at the time of application.	\$ 10.00	\$ 10.00
(8) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Advisory Committee for Acupuncture		

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-6-101, 63-6-1004, and 63-6-1009.

0880-12-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.

- (2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Committee and Board designee who have both reviewed the completed application and determined that the applicant has met all the requirements for certification, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Committee or Board subsequently makes a good faith determination that the applicant has not met all the requirements for certification, renewal or reinstatement and therefore denies, limits, conditions or restricts certification, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation conditioning or restricting of certification.
- (3) If an application is incomplete when received by the Administrative Office, or the reviewing Committee and/or Board member or the Committee's/Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator shall notify the applicant of the information required. The applicant shall cause the requested information to be received in the Administrative Office on or before the sixtieth (60th) day after receipt of the notification.
- (4) If requested information is not timely received, the application file may be considered abandoned and may be closed by the administrator. If that occurs, the applicant shall be notified that the Committee and Board will not consider issuance of a certificate until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Committee Board.
- (5) If a reviewing Committee and/or Board member or Committee and/or Board designee initially determines that a completed application should be denied, limited, conditioned or restricted, a temporary authorization shall not be issued. The applicant shall be informed of the initial decision and that a final determination on the application will be made by the Committee and the Board at their next appropriate meeting. If the Committee and Board ratify the initial denial, limitation, condition or restriction, the action shall become final and the following shall occur:
 - (a) A notification of the denial, limitation, condition or restriction shall be sent by the Administrative Office by certified mail, return receipt requested, that contains the specific reasons for denial, limitation, condition or restriction, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for certification, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.
 1. An applicant has a right to a contested case hearing only if the certification denial, limitation, condition or restriction is based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if the certification denial, limitation, condition or restriction is based on an objective, clearly defined criteria only if after review and attempted resolution by the Committee's Administrative Staff, the application can not be approved and the reasons for continued denial, limitation, condition or restriction present genuine issues of fact and/or law which are appropriate for appeal. Requests for a hearing must be made in writing to the Administrative Office within thirty (30) days of the receipt of the notice of denial, limitation, condition or restriction from the Committee and/or Board.

- (6) If the Committee finds it has erred in the issuance of a certification, it will give written notice by certified mail of its intent to revoke or cancel the certificate. The notice will allow the applicant the opportunity to meet the requirements for certification within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke or cancel the certification, the applicant shall have the right to proceed according to paragraph (5) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-6-101, 63-6-1004, 63-6-1005, and 63-6-1006.

0880-12-.08 RESERVED.

0880-12-.09 CERTIFICATION RENEWAL - All certificates must be renewed to enable continued practice. Renewal is governed by the following:

- (1) The due date for certification renewal is its expiration date which is the last day of the month in which a certificate holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" as provided in rule 1200-10-1-10.
- (2) Methods of Renewal – Certificate holders may accomplish renewal by one (1) of the following methods:
 - (a) Internet Renewals – Individuals may apply for renewal via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - (b) Paper Renewals – Certificate holders who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Committee. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal.
- (3) To be eligible for renewal an individual must submit to the Division of Health Related Boards on or before the expiration date the following:
 - (a) A completed and signed renewal application form; and
 - (b) The renewal and state regulatory fees as provided in Rule 0880-12-.06; and
 - (c) Unless issued a certification under the grandfathering provisions of T.C.A. § 63-6-1005
 1. For certified acupuncturists, proof of current, active NCCAOM certification.
 2. For ADS certificate holders, proof of current active practice in auricular detoxification treatment.
- (4) Any renewal application received after the certification expiration date but before the last day of the month following the certification expiration date must be accompanied by the Late Renewal Fee provided in Rule 0880-12-.06.
- (5) Any individual who fails to comply with the renewal rules and/or notifications sent to them concerning failure to timely renew shall have their certificate processed pursuant to rule 1200-10-1-10.

- (6) Renewal of an Expired Certificate – Renewal of a certificate that has expired as a result of failure to timely renew in accordance with rule 1200-10-1-.10 may be accomplished upon meeting the following conditions:
 - (a) For persons whose certifications have expired for not more than two (2) years:
 1. Submission of a completed reinstatement application; and
 2. Payment of late renewal fee.
 - (b) Persons whose certificates have expired for two (2) years or more may not renew certification but must apply for a new certificate pursuant to either rule 0880-12-.04 or .05.
- (4) If derogatory information or communication is received during the renewal process, if requested by the Committee and/or Board or their duly authorized representative(s), appear before the Committee and/or Board, a duly constituted panel of the Board, a Committee and/or Board member, a screening panel of the Board when the individual is under investigation or the Committee and/or Board Designee for an interview and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.
- (5) Renewal issuance decisions pursuant to this rule may be made administratively, or upon review by the Committee and Board or their designees.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-1004, and 63-6-1006.

0880-12-.10 SUPERVISION. All persons practicing with a limited certification as an ADS shall be under the supervision of a certified acupuncturist or a medical director of a hospital, clinic, or treatment facility which provides comprehensive alcohol and substance abuse or chemical dependency services, including counseling.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-1001, 63-6-1002, 63-6-1004, and 63-6-1005.

0880-12-.11 RETIREMENT AND REACTIVATION OF CERTIFICATE.

- (1) Certificate holders who wish to retain their certificates but not actively practice may avoid administrative revocation of and/or compliance with the renewal process by obtaining, completing, and submitting, to the Administrative Office, an affidavit of retirement form along with any documentation required by the form.
- (2) Upon successful application for retirement with completion and receipt of all proper documentation to the Committee's and Board's satisfaction, the certificate shall be registered as retired. Any person who has a retired certificate may not practice in Tennessee.
- (3) Reactivation - Any retired certificate may be reactivated by doing the following:
 - (a) Submit a written request for a Reactivation Application to the Board Administrative Office; and
 - (b) Complete and submit the Reactivation Application along with the renewal fee as provided in Rule 0880-12-.06 to the Administrative Office. If reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the certificate restoration fee and past due renewal fees as provided in Rule 0880-12-.06; and

- (c) Submit any documentation which may be required by the form to the Board Administrative Office; and
 - (d) If requested, after review by the Committee and/or Board or a designated Committee and/or Board member, appear before either the Committee and/or Board, or a duly constituted panel of the Board, or another Committee or Board member, or the Committee and/or Board Designee for an interview regarding continued competence
 - (e) In the event of retirement in excess of two (2) years or the receipt of derogatory information or communication during the reactivation process the applicant should be prepared to meet or accept other conditions or restrictions as the Committee and/or Board may deem necessary to protect the public.
 - (f) If retirement was in excess of five (5) years, the applicant may be required to successfully complete whatever educational and/or testing requirements the Committee and/or Board feels necessary to establish current levels of competency.
- (4) Certificate reactivation applications, review, and decisions shall be governed by Rule 0880-12-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-111, 63-6-101, and 63-6-1004.

0880-12-.12 RESERVED.

0880-12-.13 PROFESSIONAL ETHICS. All certificate holders shall comply with the Code of Ethics adopted by the NCCAOM except to the extent that they do not conflict with the laws of the state of Tennessee or the rules of the Committee and/or Board. If the NCCAOM Code of Ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the Code of Ethics or state law or rules may subject a certificate holder to disciplinary action pursuant to Rule 0880-12-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-1004, and 63-6-1006.

0880-12-.14 RESERVED.

0880-12-.15 DISCIPLINARY ACTIONS, AND CIVIL PENALTIES.

- (1) Upon a finding by the Committee and Board that a certificate holder has violated any provision of the T.C.A. §§ 63-6-1001, et seq., or the rules promulgated pursuant thereto, the Committee and Board may take any of the following actions separately or in any combination which is deemed appropriate to the offense;
 - (a) Warning Letter - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a certificate holder on close scrutiny for a fixed period of time. This action may be combined with conditions that must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.

- (d) Certificate Suspension - This is a formal disciplinary action that suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the certificate previously issued.
 - (e) Revocation for Cause -This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the certificate previously issued. The Committee and/or Board, in their discretion, may allow reinstatement of a revoked certificate upon conditions and after a period of time which they deem appropriate. No petition for reinstatement and no new application for certification from a person whose certificate was revoked for cause shall be considered prior to the expiration of at least six (6) months from the effective date of the revocation order.
 - (f) Conditions - Any action deemed appropriate by the Committee and/or Board to be required of a disciplined certificate holder during any period of probation or suspension or as a pre-requisite to the lifting of probation or suspension or the reinstatement of a revoked certificate.
 - (g) Civil Penalty - A monetary disciplinary action assessed by the Committee and/or Board pursuant to the procedures and schedules contained in paragraph (3).
- (3) Civil Penalties
- (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.
 - (b) Schedule of Civil Penalties
 1. A “Type A” Civil Penalty may be imposed whenever the Committee finds a person who is required to be licensed, certified, permitted, or authorized by the Committee, guilty of a willful and knowing violation of the T.C.A. §§ 63-6-1001, et seq., or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing as an acupuncturist or as an ADS without a permit, license, certificate, or other authorization from the Committee is one of the violations for which a “Type A” Civil Penalty is assessable.
 2. A “Type B” Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation T.C.A. §§ 63-6-1001, et seq., or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
 3. A “Type C” Civil Penalty may be imposed whenever the Committee finds the person required to be licensed, certified, permitted, or authorized by the Committee is guilty of a violation of T.C.A. §§ 63-6-1001, et seq., or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.
 - (c) Amount of Civil Penalties.
 1. “Type A” Civil Penalties shall be assessed in the amount of not less than \$500 nor more than \$1000.
 2. “Type B” Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
 3. “Type C” Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties.

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Committee during consideration of any Notice of Charges. In addition, the Committee may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Committee may consider the following factors:
 - (i) Whether the amount imposed will be substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, T.C.A.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-134, 63-6-101, 63-6-1003, 63-6-1004, and 63-6-1007.

0880-12-.16 Replacement Certificates - A Certificate holder whose “artistically designed” Certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Administrative Office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the fee required pursuant to Rule 0880-12-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-6-101, and 63-6-1004.

0880-12-.17 CHANGE OF NAME AND/OR ADDRESS.

- (1) Change of Name – Any certificate holder shall notify the Administrative Office in writing within thirty (30) days of a name change and will provide both the old and new names. A name change notification must also include a copy of the official document involved and reference the individual’s profession, committee/board, social security, and certificate numbers.
- (2) Change of Address - Each person holding a certificate who has had a change of address shall file in writing with the Administrative Office his/her current address providing both the old and new addresses. Such requests must be received in the Administrative Office no later than thirty (30) days after such change is effective and must reference the individual’s name, profession, social security number, and certificate number.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-108, 63-6-101, and 63-6-1004.

0880-12-.18 RESERVED.

0880-12-.19 COMMITTEE OFFICERS, CONSULTANTS, RECORDS, AND DECLARATORY ORDERS.

- (1) The Committee shall annually elect from its members the following officers:
 - (a) Chair - who shall preside at all meetings of the Committee; and
 - (b) Co-Chair – who shall preside at meetings in the absence of the Chair and who along with the Committee Administrator shall be responsible for correspondence from the Committee
- (2) The Committee has the authority to select a Committee consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:
 - (a) Review complaints and recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
 - (b) Recommend whether and upon what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the Committee and Board before it becomes effective.
 - (c) Undertake any other matter authorized by a majority vote of the Committee and/or Board.
- (3) Records and Complaints
 - (a) Minutes of the Committee meetings and all records, documents, applications and correspondence will be maintained in the Administrative Offices.
 - (b) All requests, applications, notices, other communications and correspondence shall be directed to the Administrative Office. Any requests or inquiries requiring a Committee decision or official Committee action except documents relating to disciplinary actions, or hearing requests must be received fourteen (14) days prior to a scheduled meeting and will be retained in the Administrative Office and presented to the Committee at the Committee meeting. Such documents not timely received shall be set over to the next Committee meeting.
 - (c) All records of the Committee, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Administrative Office during normal business hours.
 - (d) Copies of public records shall be provided to any person upon payment of a fee.
 - (e) All complaints should be directed to the Division's Investigations Section.
- (4) The Committee members or the Consultant are individually vested with the authority to do the following acts:
 - (a) Review and make determination on certification, renewal and reactivation of applications subject to the rules governing those respective applications and subject to the subsequent ratification by the Committee and Board.

- (b) Serve as Consultant to the Division to decide the following:
1. Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
 2. Whether and under what terms a complaint, case or disciplinary action might be settled. Any proposed settlement must be subsequently ratified by the Committee and Board.
- (5) The Committee shall designate one (1) of its members or the Consultant to make determinations pursuant to Rule 1360-4-1-.18.
- (6) Requests for Verification of Licensure for an acupuncturist or an ADS desiring to practice in another state must be made in writing to the Administrative Office.
- (7) Declaratory Orders - The Committee adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Committee shall be addressed by the Committee pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Administrative Office.

Authority: T.C.A. §§4-5-202, 4-5-105, 4-5-223, 4-5-224, 63-1-115, 63-1-117, 63-6-101, 63-6-1003, 63-6-1004, and 63-6-1007.

0880-12-.20 ADVERTISING, FRAUDULENT, MISLEADING, OR DECEPTIVE ADVERTISING IS PROHIBITED.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-1004.
Notary Public

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of May, 2002. (05-19)

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-22-102, 63-23-103, 63-23-108, and 63-23-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 31st 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 1365-1-.04 Qualifications for Certification and Licensure, is amended by deleting paragraphs (1) and (3) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1) and (3) shall read:

- (1) Certified Master Social Worker – Must be a graduate with a masters or doctorate degree in social work granted by a university, college, or school of social work accredited by the Council on Social Work Education.
- (3) Licensure by Reciprocity – The Board may issue a license to any person to practice as a clinical social worker who, at the time of application, holds a valid license issued by a board of social work of any state, has met the requirements of paragraph (1) of this rule, has completed two (2) years of supervised post-graduate clinical experience pursuant to rule 1365-1-.10, and provides evidence of not having failed the examination pursuant to Rule 1365-1-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-23-103, 63-23-108, and 63-23-109.

Rule 1365-1-.05, Procedures for Certification and Licensure, is amended by deleting paragraph (2) but not its subparagraphs and subparagraph (3) (h) in their entirety and substituting instead the following language, so that as amended, the new paragraph (2) but not its subparagraphs and the new subparagraph (3) (h) shall read:

- (2) Licensed Clinical Social Worker. An applicant who has the equivalence of two (2) calendar years full-time clinical experience, pursuant to Rules 1365-1-.10 and 1365-1-.14, may apply for licensure by examination to engage in independent practice.
- (3) (h) It is the applicant's responsibility to furnish a reference letter from another licensed clinical social worker (not the LCSW who provided the clinical supervision), to the effect that the applicant has had the equivalency of two years full-time clinical experience, accrued entirely after receipt of the master's degree in social work and under the supervision of a person licensed as a clinical social worker. If the person signing the reference letter is not duly licensed in Tennessee, but is licensed in another state, documentation of his licensure must be included.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-108, and 63-23-109.

Rule 1365-1-.05, Procedures for Certification and Licensure, is amended by deleting subparagraph (3) (b) in its entirety and renumbering the remaining subparagraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-108, and 63-23-109.

Rule 1365-1-.06, Fees, is amended by deleting part (4) (b) 4. in its entirety and substituting instead the following language, so that as amended, the new part (4) (b) 4. shall read:

- | | | |
|------------|---------------------|-----------|
| (4) (b) 4. | License | |
| | (i) By Examination | \$ 75.00 |
| | (ii) By Reciprocity | \$ 175.00 |

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-108, and 109.

Rule 1365-1-.10, Supervision, is amended by deleting paragraph (2), but not its subparagraphs, in its entirety and substituting instead the following language, so that as amended, the new paragraph (2), but not its subparagraphs, shall read:

- (2) The L.C.S.W. applicant by examination, after having become a certified master social worker (C.M.S.W.), shall have completed a total of two thousand (2,000) clinical contact hours over not less than a two (2) year period. The L.C.S.W. applicant by reciprocity shall have completed a total of two thousand (2,000) clinical contact hours over not less than a two (2) year period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-108, and 109.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of May, 2002. (05-04)



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 May 1, 2002 and ending May 31, 2002..

A handwritten signature in cursive script that reads "Riley C. Darnell".

RILEY C. DARNELL
Secretary of State

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