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**Volume 28, Number 9**

**RILEY C. DARNELL**  
Secretary of State

Division of Publications  
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312 8th Avenue North  
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Department of State, Authorization No. 305197, 375 copies, September 2002. This public document was promulgated at a cost of \$ 4.19 per copy.

## PREFACE

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

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

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

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

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

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

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

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

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

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## **ANNOUNCEMENTS**

### **DEPARTMENT OF ENVIRONMENT AND CONSERVATION – 0400**

#### **PETITION FOR DECLARATORY ORDER NOTICE OF HEARING**

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

1. Petitioner's Name: Hyde Motor Company
2. Petitioner's Attorney: Billy D. Baliles  
  
Address: 122 Main Street Post Office Box 368  
Ducktown, Tennessee 37326  
  
Telephone number: (423)496-3603
3. Organization, if any, that the Petitioner represents:  
  
Organization Name: N/A  
  
Address: N/A
4. Summary of the relief requested:

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

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

T.C.A. § 68-215-105, et seq.

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

A contested case hearing has been scheduled for December 18-19, 2002, 9:30 a.m., 17th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 22nd day of August 2002.

**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 October 2002 is 9.14 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 5.14 per cent.

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

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

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of August 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
08-05	Aug 5, 2002	<b>1660 Wildlife Resources Commission</b>	Rulemaking Hearing Rules	New Rule	<i>Chapter 1660-1-14 Rules and Regulations for Refuges and Wildlife Management Areas</i> 1660-1-14-.15 Fees for use of Royal Blue Wildlife Management Area	Sheryl Holtam TWRA POB 40747 Nashville TN 37204 615-781-6606	Oct 19, 2002
08-06	Aug 5, 2002	<b>1710 TN Higher Education Commission</b>	Proposed Rules	Amendments	1710-1-2-.09 Basis and Procedure For Disbursement of Funds	Will Burns Suite 1900, Parkway Twrs 404 James Robertson Parkway Nashville, TN 37243-0830 (615) 741-7571	Dec 27, 2002
08-07	Aug 5, 2002	<b>1140 Pharmacy</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 1140 Introductory Rules</i> 1140-1-.10 Fees 1140-1-.14 Prescription Drugs  <i>Chapter 1140-2 Professional Conduct and Responsibilities</i> 1140-2-.02 Pharmacy Technicians  <i>Chapter 1140-3 Standards of Practice</i> 1140-3-.04 Facsimile and Electronic Medical and Prescription Orders 1140-3-.14 Pharmacist in Charge  <i>Chapter 1140-4 Institutional and Alternate or Alternate Infusion Pharmacy Practice Sites</i> 1140-4-.09 Emergency Kits  <i>Chapter 1140-5 Continuing Education</i> 1140-5-.02 Reporting System	Cecil H. Ross Commerce and Insurance Office of Legal Counsel 25th Fl, TN Twr 312 8th Ave N Nashville, TN 37243 (615) 741-3072	Nov 2, 2002
08-08	Aug 6, 2002	<b>1020 Nursing Home Administrators</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 1020-1 General Rules Governing Nursing Home Administrators</i> 1020-1-.01 Definitions 1020-1-.02 Fees 1020-1-.11 Licensure Renewal	Tracey Boyers-Heathman OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Oct 20, 2002
08-09	Aug 6, 2002	<b>1200 Health Bureau of Health Informatics</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-7-1 Vital Records</i> 1200-7-1-.07 Disposition of Reports of Fetal Death and Induced	Jerrold Daniels 312 8th Ave N, 26th Fl Nashville, TN 37247	Oct 20, 2002

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-09, cont.					Terminations of Pregnancy 1200-7-1-.11 Disclosure of Records 1200-7-1-.13 Fees For Copies And Searches	Telephone: (615) 741-1611	Oct 20, 2002
08-11	Aug 6, 2002	<b>1640 TN Student Assistance Corporation</b>	Proposed Rules	Amendments	<i>Chapter 1640-1-9 Ned McWherter Scholars Program</i> 1640-1-9-.04 Scholarship Amount, Length, and Intervals of Payments	Ron Gambill Executive Director TSAC Suite 1950, Pkwy Twr 404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	Dec 27, 2002
08-12	Aug 6, 2002	<b>1640 TN Student Assistance Corporation</b>	Proposed Rules	Amendments	<i>Chapter 1640-1-13 Minority Teaching Fellows Program</i> 1640-1-13-.05 Loan Amount and Terms	Ron Gambill Executive Director TSAC Suite 1950, Pkwy Twr 404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	Dec 27, 2002
08-13	Aug 6, 2002	<b>1640 TN Student Assistance Corporation</b>	Proposed Rules	Amendments	<i>Chapter 1640-1-16 Robert C. Byrd Honors Scholarship</i> 1640-1-16-.04 Award Procedures	Ron Gambill Executive Director TSAC Suite 1950, Pkwy Twr 404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	Dec 27, 2002
08-14	Aug 6, 2002	<b>1640 TN Student Assistance Corporation</b>	Proposed Rules	Amendments	<i>Chapter 1640-1-17 TN Teaching Scholars Program</i> 1640-1-17-.05 Loan Amount and Terms	Ron Gambill Executive Director TSAC Suite 1950, Pkwy Twr 404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	Dec 27, 2002
08-15	Aug 6, 2002	<b>0880 Board of Medical Examiners' Committee on Physician Assistants</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 0880-3 General Rules and Regulations Governing the Practice of a Physician Assistant</i> 0880-3-.01 Definitions 0880-3-.05 Procedures for Licensure 0880-3-.07 Application Review, Approval and Denial, Chapter	Robert J. Kraemer OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611.	Oct 20, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-15, cont.					0880-3-.08 Examinations 0880-3-.12 Continuing Education 0880-3-.14 Temporary License <i>Chapter 0880-10</i> <i>General Rules and Regulations Governing the Practice of an Orthopedic Physician Assistant</i> 0880-10-.07 Application Review, Approval and Denial		
08-18	Aug 16, 2002	<b>1365 Social Worker Certification and Licensure</b>	Rulemaking Hearing Rules	Amendments  New Rule	<i>Chapter 1365-1</i> <i>General Rules and Regulations</i> 1365-1-.01 Definitions 1365-1-.06 Fees 1365-1-.09 Renewal of Certificate or License 1365-1-.12 Continuing Education 1365-1-.13 Unethical Conduct 1365-1-.21 Professional Peer Assistance.	Robert J. Kraemer OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611.	Oct 30, 2002
08-19	Aug 16, 2002	<b>0880 Medical Examiners</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 0880-2</i> <i>General Rules and Regulations Governing the Practice of Medicine</i> 0880-2-.02 Fees,  <i>Chapter 0880-4</i> <i>General Rules and Regulations Governing the Practice of Athletic Trainers</i> 0880-4-.05 Licensure Process 0880-4-.06 Fees 0880-4-.08 Examinations  <i>Chapter 0880-5</i> <i>General Rules and Regulations Governing the Utilization of X-Ray Operators in Physician's Offices</i> 0880-5-.02 Fees.	Robert J. Kraemer OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611.	Oct 30, 2002
08-20	Aug 16, 2002	<b>0450 Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 0450-1</i> <i>General Rules Governing Professional Counselors</i> 0450-1-.01 Definitions 0450-1-.05 Procedures for Licensure 0450-1-.06 Fees 0450-1-.10 Supervision, Post-Masters 0450-1-.13 Professional Ethics  <i>Chapter 0450-2</i>	Tracey Boyers-Heathman General Counsel, 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	August 16, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-20, cont.					<i>General Rules Governing Marital and Family Therapists</i> 0450-2-.06 Fees 0450-2-.13 Professional Ethics  <i>Chapter 0450-3</i> <i>General Rules Governing Clinical Pastoral Therapists</i> 0450-3-.06 Fees 0450-3-.13 Professional Ethics		
08-27	Aug 21, 2002	<b>1240 Human Services</b> Adult and Family Services Division	Emergency Rules	Amendments	<i>Chapter 1240-4-6</i> <i>Licensure Rules for Child Care Centers Serving School-Age Children</i> 1240-4-6-.06 Organization and Administration 1240-4-6-.10 Transportation	William B. Russell Human Services General Counsel Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Aug 21, 2002 through Feb 2, 2003
08-28	Aug 21, 2002	<b>1240 Human Services</b> Adult and Family Services Division	Emergency Rules	Amendments	<i>Chapter 1240-4-3</i> <i>Licensure Rules for Child Care Centers Serving Pre-School Children</i> 1240-4-3-.06 Organization and Administration 1240-4-3-.10 Transportation.	William B. Russell Human Services General Counsel Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Aug 21, 2002 through Feb 2, 2003
08-29	Aug 21, 2002	<b>1240 Human Services</b> Adult and Family Services Division	Emergency Rules	Amendments	<i>Chapter 1240-4-4</i> <i>Standards for Family Day Care Homes</i> 1240-4-4-.02 Ownership and Administration 1240-4-4-.07 Transportation.	William B. Russell Human Services General Counsel Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Aug 21, 2002 through Feb 2, 2003
08-30	Aug 21, 2002	<b>1240 Human Services</b> Adult and Family Services Division	Emergency Rules	Amendments	<i>Chapter 1240-4-1</i> <i>Standards for Group Day Care Homes</i> 1240-4-1-.02, Ownership and Administration 1240-4-1-.07 Transportation.	William B. Russell Human Services General Counsel Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Aug 21, 2002 through Feb 2, 2003
08-31	Aug 21, 2002	<b>1115 Registration in Podiatry</b>	Rulemaking Hearing Rules	Amendments	<i>Chapter 1155-3</i> <i>General Rules Governing Podiatry X-Ray Operators</i> 1155-3-.02 Education and Training Requirements	Glen Watson OGC 26th Fl, TN Twr 312 8th Ave N Nashville, TN 37247-0120	Nov 4, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-31, cont.					1155-3-.04 Continuing Education	615-741-1611	
08-32	Aug 21, 2002	<b>0460 Dentistry</b>	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0460-1</i> <i>General Rules</i> 0460-1-.01 Definitions 0460-1-.02 Fees 0460-1-.06 Disciplinary Actions, Civil Penalties, Procedures, Declaratory Orders, Assessment of Costs, and Subpoenas 0460-1-.10 Clinical Techniques—Teeth Whitening</p> <p><i>Chapter 0460-2</i> <i>Rules Governing the Practice of Dentistry</i> 0460-2-.08 Licensure Renewal 0460-2-.09 Licensure Retirement and Reactivation</p> <p><i>Chapter 0460-3</i> <i>Rules Governing Practice of Dental Hygienists</i> 0460-3-.07 Licensure Renewal 0460-3-.08 Licensure Retirement and Reactivation</p> <p><i>Chapter 0460-4</i> <i>Rules Governing the Practice of Dental Assistants</i> 0460-4-.06 Registration Renewal 0460-4-.07 Registration Retirement and Reactivation</p>	Nick Aemisegger OGC 26th Fl, TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 4, 2002
08-34	Aug 26, 2002	<b>0260 Chiropractic Examiners</b>	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0260-2</i> <i>General Rules Governing Chiropractic Physicians</i> 0260-2-.12 Continuing Education 0260-2-.15 Disciplinary Actions, Civil Penalties, Informal Settlements, Screening Panels, Subpoenas, and Assessment of Costs</p> <p><i>Chapter 0260-3</i> <i>General Rules Governing Chiropractic X-Ray Technologists</i> 0260-3-.14 Disciplinary Actions and Civil Penalties</p>	Robert J. Kraemer OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 9, 2002

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-35	Aug 26, 2002	<b>0400 Environment and Conservation</b> Division of Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13 Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Building Nashville, TN 37243-1538 (615)532-0916	Nov 9, 2002
08-36	Aug 26, 2002	<b>1240 Human Services</b> Child Support Division	Rulemaking Hearing Rules	New Rule	<i>Chapter 1240-2-3 Miscellaneous IV-D</i> 1240-2-3-.03 Child Support Processing Fee	Barbara Broersma Citizens Plaza Bldg, 15th Fl 400 Deaderick St Nashville, TN 37248-0006 (615) 313-4731	Nov 9, 2002
08-37	Aug 26, 2002	<b>1200 Health</b> Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-25 Standards for Assisted-Care Living Facilities</i> 1200-8-25-.07 Building Standards	John W. Dalton Health Office of General Counsel 26th Fl TN Twr 212 8th Ave N Nashville, TN 37247-0120 615-532-7179	Nov 9, 2002
08-38	Aug 26, 2002	<b>0780 Commerce &amp; Insurance</b> Insurance Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 0780-1-28 Health Maintenance Organizations</i> 0780-1-28-.01 Statements and Reports – Form and Contents	Robert E. Moore Office of Legal Counsel Commerce & Insurance 312 8th Ave. N Snodgrass Bldg, 25th Fl Nashville, TN 37243 615-741-2199	Nov 9, 2002
08-39	Aug 28, 2002	<b>1240 Human Services</b> Family Assistance Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1240-1-50 Standard of Need/Income</i> 1240-1-50-.20 Standard Of Need/Income	Phyllis Simpson TN Twr, 26th Fl 312 8th Ave N Nashville, TN 37243 (615) 741-9534	Nov 11, 2002
08-40	Aug 28, 2002	<b>1240 Human Services</b> Family Assistance Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1240-1-2 Family Assistance Unit Food Stamp Program</i> 1240-1-2-.02 Household Concept - Food Stamps Only  <i>Chapter 1240-1-4 Financial Eligibility Requirements</i> 1240-1-4-.27 Standard Of Need/Income	Phyllis Simpson TN Twr, 26th Fl 312 8th Ave N Nashville, TN 37243 (615) 741-9534	Nov 11, 2002
08-43	Aug 28, 2002	<b>1640 TN Student Assistance Corporation</b>	Proposed Rules	Amendments	<i>Chapter 1640-1-1 TN Student Assistance Program</i> 1640-1-1-.02 Student Eligibility-Award Use	Ron Gambill Executive Director TSAC Suite 1950, Parkway Twrs	Dec 27, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-43, cont.						404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	
08-44	Aug 28, 2002	<b>0880 Medical Examiners</b> Committee on Physician Assistants	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0880-3</i> <i>General Rules and Regulations Governing the Practice of a Physician Assistant</i></p> <p>0880-3-.01 Definitions 0880-3-.07 Application Review, Approval, and Denial 0880-3-.09 Licensure Renewal 0880-3-.15 Disciplinary Grounds, Actions, and Civil Penalties</p> <p><i>Chapter 0880-10</i> <i>General Rules and Regulations Governing the Practice of an Orthopedic Physician Assistant</i></p> <p>0880-10-.01 Definitions 0880-10-.07 Application Review, Approval, and Denial 0880-10-.09 Licensure Renewal 0880-10-.15 Disciplinary Grounds, Actions, and Civil Penalties</p>	Robert J. Kraemer, Jr., Associate General Counsel, Office of General Counsel, 26th Fl., W. R. Snodgrass TN Twr., 312 8th Ave. N., Nashville, TN 37247-0120, (615) 741-1611	Nov 11, 2002
08-46	Aug 19, 2002	<b>1200 Health</b> Board of Alcohol and Drug Abuse Counselors	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-30-1</i> <i>Rules Governing Licensure of Alcohol and Drug Abuse Counselors</i></p> <p>1200-30-1-.01 Definitions 1200-30-1-.06 Fees 1200-30-1-.08 Examinations 1200-30-1-.09 Renewal of License 1200-30-1-.12 Continuing Education 1200-30-1-.15 Disciplinary Actions and Civil Penalties</p>	Glen Watson, Assistant General Counsel, Office of General Counsel, 26th Fl, William R. TN Twr, 312 8th Ave N, Nashville, TN 37243 615-741-1611.	Nov 2, 2002
08-56	Aug 29, 2002	<b>0660 Funeral Directors and Embalmers</b>	Proposed Rules	Amendments	<p><i>Chapter 0660-10</i> <i>Continuing Education</i></p> <p>0660-10-.04 Qualifying Continuing Education Programs</p>	Cecil H. Ross Commerce and Insurance Office of Legal Counsel 25th Fl, TN Twr 312 8th Ave N Nashville, TN 37243 (615) 741-3072	Dec 27, 2002

## HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720

### NOTICE OF BEGINNING OF REVIEW CYCLE

Applications will be heard at the October 23, 2002 Health Services and Development Agency 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 the review cycle effective August 1, 2002. The review cycle includes a 60-day period of review by the Tennessee Department of Health or the Department of Mental Health and Mental Retardation. Upon written request by interested parties the staff of The Health Services and Development Agency shall conduct a public hearing. *Certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a review less than 60 days including a 30-day period of review by the Department of Health or 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 68-11-1609(g)(1) effective May 2002, any health care institution wishing to oppose a Certificate of Need must file a written objection with the Health Services and Development Agency and serve a copy on the contact person no later than fifteen (15) days before the agency meeting at which the application is originally scheduled.

For more information concerning each application you may contact the Health Services and Development Agency (615/741-2364).

#### NAME AND ADDRESS

#### DESCRIPTION

Fort Sanders Loudon Medical Center  
1125 Grove Street  
Loudon (Loudon Co.), TN 37774  
Lee Ann Lambdin 0 (865)—380-2347  
CN0207-054

A replacement medical center to be located on 28 acres on the north side of Street Highway 321 bounded by Town Creek Road on the West end of the tract and an existing medical office building at Covenant Medical Plaza and Medical Park Drive on the East end in Lenoir City, Tennessee. The hospital will remain at fifty (50) licensed beds.  
\$ 25,0004,000.00

Vanderbilt Murfreesboro Imaging, LLC  
1020 North Highland Avenue, Suite B  
Murfreesboro (Rutherford Co.), TN 37130  
Bryan Brand – (615)—343-4501  
CN0207-055

The establishment of an outpatient diagnostic center and the initiation of magnetic resonance imaging services.  
\$ 2,219,830.00

Methodist Medical Center  
990 Oak Ridge Turnpike, Box 2529  
Oak Ridge (Anderson Co.), TN 37830  
Lee Ann Lambdin – (865)—380-2347  
CN0207-056

To initiate mobile extracorporeal lithotripsy services one (1) day per week on the hospital campus at 990 Oak Ridge Turnpike in Oak Ridge, Tennessee.  
\$ 648,600.00



NAME AND ADDRESS	DESCRIPTION
Fort Sanders Sevier Medical Center 709 Middle Creek Road Sevierville (Sevier Co.), TN 37862 Lee Ann Lambdin – (865)—380-2347 CN0207-057	The initiation of mobile extracorporeal lithotripsy services one (1) day per week on the hospital campus. \$ 374,400.00
American Endoscopy Center 1308 Briarville Road Madison (Davidson Co.), TN 37115 John Wellborn – (615)—665-2022 CN0207-058	To establish a single specialty ambulatory surgery treatment center with one procedure room and to initiate outpatient endoscopy surgery. \$ 1,175,154.00
Grandview Medical Center 1000 Highway 28 Jasper (Marion Co.), TN 37347 Jerry W. Taylor – (615)—726-1200 CN0207-059	The discontinuance of obstetric services at Grandview Medical Center, 1000 Highway 28, Jasper, Tennessee. If approved, the five (5) licensed beds that are currently classified as obstetrical beds will be converted to five (5) medical/surgical beds resulting in no net change in the licensed bed complement of the facility. \$ 55,000.00
Middle Tennessee Medical Center 400 North Highland Murfreesboro (Rutherford Co.), TN 37133 E. Graham Baker – (615)—383-3332 CN0207-060	To acquire and operate a second open magnetic resonance imaging (MRI) unit at 503 E. Bell Street, Murfreesboro, Tennessee. \$ 1,515,000.00
Urology Ambulatory Surgery Center Suite 101, 1325 Wolf Park Drive Germantown (Shelby Co.), TN 38138 William H. West – (615)—259-1450 CN0207-062	The initiation of extracorporeal shock wave lithotripsy (ESWL) services at the Urology Ambulatory Surgery Center, 1325 Wolf Park Drive, Germantown, Tennessee. If approved, extracorporeal lithotripsy services will be discontinued at Methodist Healthcare. \$ 195,000.00

**TENNESSEE DEPARTMENT OF SAFETY - 1340****REQUEST FOR DECLARATORY ORDER**

In the Matter of:

David Jonathan Tulis

Petitioner vs Department of Safety

To: Tennessee Secretary Of State  
From: Tennessee Department of Safety

Pursuant to T.C.A. §4-5-224, the Department of Safety hereby submits written notice of hearing of a declaratory order request.

Name of Petitioner: David Jonathan Tulis  
C/o 10520 Brickhill Lane  
Soddy-Daisy, TN 37379

Petitioner contends that the Department of Safety should not cancel his driver license under T.C.A. §53-50-502 for misrepresentation of facts and committing fraud under T.C.A. §39-16-702.

A hearing has been set for this matter on October 17 and 18, 2002, at the Department of Safety Legal Office Hearing Room, McCord Hall, 1150 Foster Avenue, Nashville, Tennessee.

Entered this 26 day of August, 2002.

## **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). Filed April 15, 2002; effective through September 27, 2002. (04-16)
- 0080 - Department of Agriculture - Division of Regulatory Services - Emergency Rules relating to the aerial application of pesticides and the persons licensed as aerial pesticide applicators, Chapter 0080-6-15 Rules and Regulations Governing Commercial Aerial Applicators of Pesticides, 6 T.A.R. (June, 2002). Filed June 28, 2002; effective through December 10, 2002. (06-38)
- 1200 - Department of Health - Board for Licensing Health Care Facilities and 0620 - Department of Finance and administration - Bureau of TennCare - Emergency rules dealing with special care units for ambulatory residents with dementia or Alzheimer's Disease and related disorders, chapters 1200-8-5 Behavioral Health Units in Nursing Facilities and Chapter 1200-13-1 General Rules, 8 T.A.R. (August 2002). Filed July 5, 2002; effective through December 17, 2002. (07-05)
- 1660 - Wildlife Resources Commission - Boating Division - Emergency rules regarding waterway zoning on Dale Hollow Lake, chapter 1660-2-7 Rules and Regulations Governing Operations of Vessels, 6 T.A.R. (June, 2002). Filed June 6, 2002; effective through November 18, 2002. (06-01)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240  
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-1**

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

On April 4, 2002, a fifteen passenger van operated by a child care agency licensed by the Department of Human Services and located in Memphis, Tennessee, ran off an interstate highway in the city and crossed a ditch, careened off a guardrail, hit a utility pole and then hit the embankment around an overpass in a single vehicle accident, on an otherwise clear day. Four children in the care of the child care agency as well as the van's driver were killed, and two other children were seriously injured.

Subsequent to this tragedy, the Governor appointed a panel to review the status of transportation of children in child care agencies. The panel released its final report to the Department on July 15, 2002. In the report, the panel made several recommendations relative to improving the manner in which children being cared for in child care agencies are transported.

Upon review of the panel's report and consideration of the review of the evidence in the fatal crash noted above, as well as review of the regulations of the National Highway Transportation Safety Administration and previous reports and recommendations of the National Transportation Safety Board regarding the use of converted vans for the transportation of children, the Department has determined that current regulations contained in the transportation requirements of Chapter 1240-4-1, Standards for Group Day Care Homes, should more specifically direct licensees regarding the methods for transporting children in their care such as: (a) more stringent qualifications for child care vehicle drivers and additional training of those drivers; (b) improved structural soundness of vehicles used to carry the children; (c) regular maintenance and daily visual inspections of vehicles used to provide child care; (d) the means of identifying and reporting of vehicles being improperly driven while transporting children; and (e) the effective supervision and protection of children during transportation.

This accident occurred in spite of new regulations developed following two separate incidents on the same day in July 1999 involving the transportation of children, also in Memphis, that led to the deaths of two small children left alone by their drivers in separate, closed, child care agency vans in the hot sun. Additional regulatory measures addressed several issues, including, the accountability for the whereabouts of children being transported by child care agencies, and driver training.

The Department finds that the above-cited incidents, all involving the transportation of children in child care agency situations, demonstrate that: (a) the issue of safe transportation of children is critical; (b) this issue is not adequately addressed by regulations; (c) the large number of children transported daily are being placed at continuing risk; and (d) that such incidents are likely to recur without stronger regulatory direction to child care providers. These incidents, and the lack of adequate regulatory directives to address these issues, represent an immediate danger affecting the public health, safety and welfare. The nature of this danger is such that the use of any other form of rulemaking authorized by Title 4, Chapter 5, Part 2 of the Tennessee Code Annotated would not adequately protect the public.

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

Natasha K. Metcalf  
Commissioner  
Tennessee Department of Human Services

**EMERGENCY RULES  
OF  
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES  
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-1  
STANDARDS FOR GROUP DAY CARE HOMES**

**AMENDMENTS**

Chapter 1240-4-1, Standards for Group Day Care Homes, is amended by deleting the language in the title of the Chapter “Standards for Group Day Care Homes, and by substituting instead the language “Standards for Group Child Care Homes”, so that, as amended, the new title shall read “Chapter 1240-4-1, Standards for Group Child Care Homes”.

Paragraph (2) of Rule 1240-4-1-.02, Ownership and Administration, is amended by deleting subparagraph (b) in its entirety and by substituting instead the following new language so that, as amended, subparagraph (b) shall read as follows:

- (b) A group child care home shall have written policies concerning
  1. Services offered;
  2. Provision for children’s individual needs;
  3. The home’s admission policies and enrollment procedures;
  4. Fees charged (if applicable) and plan for payment;
  5. Handling of children’s personal belongings; and
  6. If the agency provides transportation for children in the agency’s care, the written statement required by 1240-4-1-.07(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process and parental permission for trips away from facility.

**Authority:** *T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).*

Paragraph (7) of subchapter 1240-4-1-.02, Ownership and Administration, is amended by deleting paragraph (7) in its entirety and by re-designating existing paragraph (8) as paragraph (7).

**Authority:** *T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).*

Chapter 1240-4-1, Standards for Group Child Care Homes, is amended by adding the following new subchapter 1240-4-1-.07, Transportation, and by re-designating the existing subchapter 1240-4-1-.07, Food, as subchapter 1240-4-1-.08, Food, and by re-designating all remaining subchapters and the Table of Contents accordingly:

**1240-4-1-.07 TRANSPORTATION.**

- (1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.
  - (a) Management Responsibility.

1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:
    - (i) The type(s) of transportation that will be offered, e.g., from the child's home to the child care agency, from the child care agency to the child's school, etc.;
    - (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;
    - (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;
    - (iv) The provider's plan for maintaining compliance with the transportation time limits set forth in 1240-4-1-.07(6);
    - (v) The provider's policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-4-1-.07(1)(b);
    - (vi) The provider's policy and procedures for attaining and maintaining compliance with the State child safety restraint laws set forth in Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children; and
    - (vii) The provider's policy and procedures for the emergency evacuation of the vehicle.
  2. The group child care home's management shall be fully responsible for the transportation of children between home and the group child care home, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.
  3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-4-1-.02(7).
- (b) Loading\Unloading and Verification Procedures.
1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., "Doe", and who are transported on the same vehicle shall not be recorded by the single entry "Doe" which only records the group's last name and is used by the group child care home to signify that all three (3) "Doe" children are accounted for. Each child shall, instead, be separately listed by first and last name.
  2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.
  3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.

4. Immediately, upon unloading the last child/children from the vehicle and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the group child care home in part 5 and shall immediately:
  - (i) physically walk through the vehicle; and
  - (ii) inspect all seat surfaces, under all seats and any and all compartments or recesses in the vehicle's interior.
5. Additional caregiver/staff review and verification requirements.
  - (i) In instances when the driver in part (4) is working under the direction or control of the group child care home, but is not the sole caregiver, or when more than one caregiver is required, then, when unloading children at the group child care home or during field trips, or when, prior to being parked at the group child care home or other location, and to ensure that all children have been unloaded, the group child care home shall designate a caregiver other than the person responsible for recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and have been properly accounted for
  - (ii) When unloading children at the group child care home or field trip destinations, or when, prior to being parked at the group child care home or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:
    - (I) reconcile the passenger log with the children's attendance records; and
    - (II) conduct the same inspection as required in subparts (1)(b)4.(i) and (ii) above.
  - (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the group child care home for an annual license, whichever is first.
6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.
7. When children are transported to school, they shall be released in accordance with the following procedures:
  - (i) the children shall be unloaded only at the location designated by the school;
  - (ii) the children are only allowed to unload from the group child care home's vehicle at the time the school is open to receive them;
  - (iii) the driver/ caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and

- (iv) any additional procedures established by the school.
8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency that provides such services for children enrolled in the child care agency.
- (c) Transportation Staff Qualifications.
- 1. Driver License Requirements.
    - (i) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry less than ten (10) persons, shall hold a current Tennessee driver license with an "F" (for hire) endorsement pursuant to T.C.A. § 55-50-102(20)(F).
    - (ii) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry ten (10) or more persons, shall have a current Tennessee commercial driver license pursuant to T.C.A. § 55-50-102(11).
  - 2. Effective January 1, 2003 all persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.
  - 3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:
    - (i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;
    - (ii) The proper use of child safety restraints set forth in paragraph (4) and Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children;
    - (iii) ~~The proper use of the verification procedures set forth in subparagraph (1) (a) above;~~
    - (iv) The proper use of a blood-borne pathogen kit;
    - (v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
    - (vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.



4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-4-1-.07(1)(c)3., above, a minimum of every six (6) months.
  5. Effective January 1, 2003 all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.
  6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.
  7. The requirements of 1240-4-1-.07(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.
- (2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.
- (a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.
  - (b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that designated child care, contractor or other entity staff, perform daily a visual safety inspection of the vehicle, including an inspection of all tires for wear and adequate pressure, an inspection for working lights, brakes, signals, and wiper blades, and an inspection for properly functioning child restraints, doors and windows.
  - (c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.
  - (d) Beginning July 1, 2003, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.
  - (e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency's direction or control shall be made available upon request to Department staff.
  - (f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency's direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.

- (g) Special requirements for vehicles designed to carry ten (10) to eighteen (18) passengers which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR):
  - 1. A maximum number of ten (10) individuals, including the driver, all children and all adults, shall be transported in vehicles which are designed to carry ten (10) to eighteen (18) passengers but which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR). Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 2. No individual shall ride, and no cargo, luggage or equipment of any type shall be placed, in the back portion of the vehicle that extends over the rear axle. Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 3. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.
- (h) Requirements for Child Care Transportation Vehicles Effective January 1, 2005.
  - 1. Effective January 1, 2005, all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended. If buses in the class of "large" school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on a large school bus.
  - 2. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.
    - (i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.
    - (j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
    - (k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.
- (3) Vehicle Signage Requirements; Exceptions.
  - (a) The requirements of this paragraph (3) are effective October 1, 2002, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.

- (b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care by displaying, on both sides of the vehicle and on the rear of the vehicle, the following information:
1. The full name of the child care agency. If the name of the child care agency does not clearly designate the agency as a child care agency words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language as approved by the Department, must be displayed on the vehicle;
  2. An emergency contact phone number for the child care agency; and
  3. The words “Child Care Complaint Hotline” followed by the Department of Human Services toll-free Child Care Complaint Hotline phone number.
- (c) The information required in subparagraph (b) must be applied to the vehicle using black letters which are at least three (3) inches high and two (2) inches wide. The letters shall appear on a background of “National School Bus Glossy Yellow”, in accordance with the colorimetric specification of National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 13432 in one of the following formats:
1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or
  2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.
- (d) Special Requirements for Centralized Transportation.
1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or
  2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency
- may substitute for the name and phone number of the child care agency required by parts 1240-4-1-.07(3)(b)1. and 2 above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.
- (e) Exceptions to Vehicle Identification Requirements.
1. Vehicles used exclusively for the provision of occasional field trips;
  2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle;

3. The Department may, on a case by case basis, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.
- (4) Child Safety Restraints.
- (a) The provisions of this paragraph (4) shall apply to any vehicle used to transport child as of the effective date of these rules. Any vehicle whether:
    1. A passenger car;
    2. A stock or custom van or sport utility vehicle;
    3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571 ; or
    4. Any other vehicle

must be properly equipped with the child passenger restraints required by subparagraphs (c)—(f) below and must comply with all other provisions of this paragraph (4).
  - (b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.
  - (c) Children under thirteen (13) months of age or who are under twenty pounds (20 lbs.) weight shall be placed to face the rear of the vehicle. Children thirteen (13) months of age or older and who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.
  - (d) Children under four (4) years of age who weigh less than forty pounds (40 lbs.) shall be restrained in accordance with the car seat manufacturer’s instructions in a Federally-approved car seat which is secured to the vehicle in accordance with the car seat manufacturer’s instructions.
  - (e) Children between the ages of four (4) years and eight (8) years who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer’s instructions. BPBS devices shall always be used with both a lap belt and a shoulder belt.
  - (f) Children weighing more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4’9”) shall be restrained with both an adult lap belt and shoulder belt in accordance with the vehicle manufacturer’s instructions.
  - (g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
  - (h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.
  - (i) Notwithstanding the provisions of this paragraph (4), until January 1, 2005, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the “large” category under Federal Motor Vehicle Safety Standards (FMVSS).

- (5) Supervision of Children During Transportation.
  - (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) Adult Monitor Requirements for Child Care Transportation.
    1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten; provided, however an adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the numbers of children being transported.
    2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.
  - (c) On field trips (whether on foot or in a vehicle), an additional caregiver, in addition to any monitor required by subparagraph (b), shall be present to help with supervision.
- (6) Limits on Time Children Are Transported/Transportation Waivers.
  - (a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
  - (b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.
- (7) The provisions of paragraphs (4)—(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency

**Authority:** *T.C.A. §§ 4-5-208; 55-50-102(11) and (20); 71-1-105(5); 71-3-502(a)(2); 49 Code of Federal Regulations Part 571.*

Chapter 1240-4-1, Standards for Group Day Care Homes, is amended by changing any existing internal rule references in the Chapter made necessary as a result of the preceding amendments, so that, as amended, all rule citations in the Chapter shall reference the correct rule.

**Authority:** *T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).*

The emergency rules set out herein were properly filed in the Department of State on the 21st day of August, 2002 and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 2nd day of February, 2002. (08-30)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240  
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-3**

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

On April 4, 2002, a fifteen passenger van operated by a child care agency licensed by the Department of Human Services and located in Memphis, Tennessee, ran off an interstate highway in the city and crossed a ditch, careened off a guardrail, hit a utility pole and then hit the embankment around an overpass in a single vehicle accident, on an otherwise clear day. Four children in the care of the child care agency as well as the van's driver were killed, and two other children were seriously injured.

Subsequent to this tragedy, the Governor appointed a panel to review the status of transportation of children in child care agencies. The panel released its final report to the Department on July 15, 2002. In the report, the panel made several recommendations relative to improving the manner in which children being cared for in child care agencies are transported.

Upon review of the panel's report and consideration of the review of the evidence in the fatal crash noted above, as well as review of the regulations of the National Highway Transportation Safety Administration and previous reports and recommendations of the National Transportation Safety Board regarding the use of converted vans for the transportation of children, the Department has determined that current regulations contained in the transportation requirements of Chapter 1240-4-3, Licensure Rules for Child Care Centers Serving Pre-School Children, should more specifically direct licensees regarding the methods for transporting children in their care such as: (a) more stringent qualifications for child care vehicle drivers and additional training of those drivers; (b) improved structural soundness of vehicles used to carry the children; (c) regular maintenance and daily visual inspections of vehicles used to provide child care; (d) the means of identifying and reporting of vehicles being improperly driven while transporting children; and (e) the effective supervision and protection of children during transportation.

This accident occurred in spite of new regulations developed following two separate incidents on the same day in July 1999 involving the transportation of children, also in Memphis, that led to the deaths of two small children left alone by their drivers in separate, closed, child care agency vans in the hot sun. Additional regulatory measures addressed several issues, including, the accountability for the whereabouts of children being transported by child care agencies, and driver training.

The Department finds that the above-cited incidents, all involving the transportation of children in child care agency situations, demonstrate that: (a) the issue of safe transportation of children is critical; (b) this issue is not adequately addressed by regulations; (c) the large number of children transported daily are being placed at continuing risk; and (d) that such incidents are likely to recur without stronger regulatory direction to child care providers. These incidents, and the lack of adequate regulatory directives to address these issues, represent an immediate danger affecting the public health, safety and welfare. The nature of this danger is such that the use of any other form of rulemaking authorized by Title 4, Chapter 5, Part 2 of the Tennessee Code Annotated would not adequately protect the public.

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

Natasha K. Metcalf  
Commissioner  
Tennessee Department of Human Services

**EMERGENCY RULES  
OF  
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES  
ADULT AND FAMILY SERVICES DIVISION  
  
CHAPTER 1240-4-3  
LICENSURE RULES FOR CHILD CARE CENTERS SERVING PRE-SCHOOL CHILDREN  
  
AMENDMENTS**

Paragraph (8) of subchapter 1240-4-3-.06, Organization and Administration, is amended by deleting paragraph (8) in its entirety.

*Authority:* T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).

Subparagraph (a) of Paragraph (1) of Rule 1240-4-3-.06, Organization and Administration, is amended by deleting subparagraph (a) in its entirety and by substituting instead the following new language so that, as amended, subparagraph (a) shall read as follows:

- (a) An applicant for a license to operate a child care agency shall submit a written statement to the Department of Human Services governing the following areas:
  - 1. The type of service to be offered to children and parents;
  - 2. Ages of children to be served.
  - 3. Hours of operation;
  - 4. Number and type of meals and snacks to be served;
  - 5. Admission requirements and enrollment procedures;
  - 6. Provision for emergency medical care; and
  - 7. If the agency provides transportation for children in the agency's care, the written statement required by 1240-4-3-.10(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process.

*Authority:* T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).

Chapter 1240-4-3, Licensure Rules for Child Care Centers Serving Pre-School Children, is amended by adding the following new subchapter 1240-4-3-.10, Transportation, and by re-designating the existing subchapter 1240-4-3-.10, Health and Safety, as subchapter 1240-4-3-.11, Health and Safety, and all remaining subchapters and the Table of Contents accordingly:

**1240-4-3-.10 TRANSPORTATION.**

- (1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.
  - (a) Management Responsibility.
    - 1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:

- (i) The type(s) of transportation that will be offered, e.g., from the child's home to the child care agency, from the child care agency to the child's school, etc.;
  - (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;
  - (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;
  - (iv) The provider's plan for maintaining compliance with the transportation time limits set forth in 1240-4-3-.10(6);
  - (v) The provider's policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-4-3-.10(1)(b);
  - (vi) The provider's policy and procedures for attaining and maintaining compliance with the State child safety restraint laws set forth in Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children; and
  - (vii) The provider's policy and procedures for the emergency evacuation of the vehicle.
2. The child care center's management shall be fully responsible for the transportation of children between home and the child care center, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.
  3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the childcare agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-4-3-.06(3).
- (b) Loading\Unloading and Verification Procedures.
1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., "Doe", and who are transported on the same vehicle shall not be recorded by the single entry "Doe" which only records the group's last name and is used by the child care center to signify that all three (3) "Doe" children are accounted for. Each child shall, instead, be separately listed by first and last name.
  2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.
  3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.
  4. Immediately, upon unloading the last child/children from the vehicle and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the child care center in part 5 and shall immediately:



- (i) physically walk through the vehicle; and
  - (ii) inspect all seat surfaces, under all seats and any and all compartments or recesses in the vehicle's interior.
5. Additional caregiver/staff review and verification requirements.
- (i) The child care center shall also designate a caregiver or management level staff person, other than the person responsible for the recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and properly accounted for.
  - (ii) When unloading children at the child care center or field trip destinations, or when, prior to being parked at the child care center or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:
    - (I) reconcile the passenger log with the children's attendance records; and
    - (II) conduct the same inspection as required in subparts (1)(b)4.(i) and (ii) above.
  - (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the center for an annual license, whichever is first.
6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.
7. When children are transported to school, they shall be released in accordance with the following procedures:
- (i) the children shall be unloaded only at the location designated by the school;
  - (ii) the children are only allowed to unload from the center's vehicle at the time the school is open to receive them;
  - (iii) the driver/caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and
  - (iv) any additional procedures established by the school.
8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency, that provides such services for children enrolled in the child care agency.
- (c) Transportation Staff Qualifications.

1. Driver License Requirements.
  - (i) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry less than ten (10) persons, shall hold a current Tennessee driver license with an "F" (for hire) endorsement pursuant to T.C.A. § 55-50-102(20)(F).
  - (ii) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry ten (10) or more persons, shall have a current Tennessee commercial driver license pursuant to T.C.A. § 55-50-102(11).
2. Effective January 1, 2003, all persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.
3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:
  - (i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;
  - (ii) The proper use of child safety restraints set forth in paragraph (4) and Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children;
  - (iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;
  - (iv) The proper use of a blood borne pathogen kit;
  - (v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
  - (vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.
4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-4-3-.10(1)(c)3., above, a minimum of every six (6) months.
5. Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.

6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.
  7. The requirements of 1240-4-3-.10(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.
- (2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.
- (a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.
  - (b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that designated child care, contractor, or other entity staff perform daily a visual safety inspection of the vehicle, including an inspection of all tires for wear and adequate pressure, an inspection for working lights, brakes, signals, and wiper blades, and an inspection for properly functioning child restraints, doors and windows.
  - (c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.
  - (d) Beginning July 1, 2003, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.
  - (e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency's direction or control shall be made available upon request to Department staff.
  - (f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency's direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.
  - (g) Special requirements for vehicles designed to carry ten (10) to eighteen (18) passengers which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR):
    1. A maximum number of ten (10) individuals, including the driver, all children and all adults, shall be transported in vehicles which are designed to carry ten (10) to eighteen (18) passengers but which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR). Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
    2. No individual shall ride, and no cargo, luggage or equipment of any type shall be placed, in the back portion of the vehicle that extends over the rear axle. Exception: The requirements of this part do not apply to vehicles that conform to the FMVSS designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.

3. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.
- (h) Requirements for Child Care Transportation Vehicles Effective January 1, 2005.
1. Effective January 1, 2005, all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all FMVSS designated as applicable to school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended. If buses in the class of "large" school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on a large school bus.
  2. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.
    - (i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.
- (j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
- (k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.
- (3) Vehicle Signage Requirements; Exceptions.
- (a) The requirements of this paragraph (3) are effective October 1, 2002, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.
  - (b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care by displaying, on both sides of the vehicle and on the rear of the vehicle, the following information:
    1. The full name of the child care agency. If the name of the child care agency does not clearly designate the agency as a child care agency words such as "Child Care Transportation Vehicle" or "Child Care Transportation Services", or similar language as approved by the Department, must be displayed on the vehicle;
    2. An emergency contact phone number for the child care agency; and
    3. The words "Child Care Complaint Hotline" followed by the Department of Human Services toll-free Child Care Complaint Hotline phone number.

(c) The information required in subparagraph (b) must be applied to the vehicle using black letters which are at least three (3) inches high and two (2) inches wide. The letters shall appear on a background of “National School Bus Glossy Yellow” in accordance with the colorimetric specification of the National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 13432, in one of the following formats:

1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or
2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.

(d) Special Requirements for Centralized Transportation.

1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or
2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency

may substitute for the name and phone number of the child care agency required by parts 1240-4-3-.10(3)(b)1. and 2. above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.

(e) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips;
2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle;
3. The Department may, on a case by case basis, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

(4) Child Safety Restraints.

(a) The provisions of this paragraph (4) shall apply to any vehicle used to transport children as of the effective date of these rules. Any vehicle whether:

1. A passenger car;
2. A stock or custom van or sport utility vehicle;

3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571; or
  4. Any other vehicle  

must be properly equipped with the child passenger restraints required by subparagraphs (c)—(f) below and must comply with all other provisions of this paragraph (4).
- (b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.
  - (c) Children under thirteen (13) months of age or under twenty pounds (20 lbs.) weight shall be placed to face the rear of the vehicle. Children thirteen (13) months of age or older and who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.
  - (d) Children under four (4) years of age who weigh less than forty pounds (40 lbs.) shall be restrained in accordance with the car seat manufacturer’s instructions in a Federally-approved car seat which is secured to the vehicle in accordance with the car seat manufacturer’s instructions.
  - (e) Children between the ages of four (4) years and eight (8) years who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer’s instructions. BPBS devices shall always be used with both a lap belt and a shoulder belt.
  - (f) Children weighing more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4’9”) shall be restrained with both an adult lap belt and shoulder belt in accordance with the vehicle manufacturer’s instructions.
  - (g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
  - (h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.
  - (i) Notwithstanding the provisions of this paragraph (4), until January 1, 2005, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the “large” category under FMVSS.
- (5) Supervision of Children During Transportation.
- (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) Adult Monitor Requirements for Child Care Transportation.
    1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten; provided, however an adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the numbers of children being transported.
    2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.

- (6) Limits on Time Children Are Transported/Transportation Waivers.
- (a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
  - (b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.
- (7) The provisions of paragraphs (4)-(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency.

*Authority:* T.C.A. §§4-5-208; 55-50-102(11) and (20); 71-1-105(5); 71-3-502(a)(2); 49 Code of Federal Regulations Part 571.

Chapter 1240-4-3, Licensure Rules for Child Care Centers Serving Pre-School Children, is amended by changing any existing internal rule references in the Chapter made necessary as a result of the preceding amendments, so that, as amended, all rule citations in the Chapter shall reference the correct rule.

*Authority:* T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).

The emergency rules set out herein were properly filed in the Department of State on the 21st day of 2002 and will be effective from the date of filing for a period of 165days. These emergency rules will remain in effect through the 2nd day of February, 2003. (08-28)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240  
ADULT AND FAMILY SERVICES DIVISION  
CHAPTER 1240-4-6**

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

On April 4, 2002, a fifteen passenger van operated by a child care agency licensed by the Department of Human Services and located in Memphis, Tennessee, ran off an interstate highway in the city and crossed a ditch, careened off a guardrail, hit a utility pole and then hit the embankment around an overpass in a single vehicle accident, on an otherwise clear day. Four children in the care of the child care agency as well as the van's driver were killed, and two other children were seriously injured.

Subsequent to this tragedy, the Governor appointed a panel to review the status of transportation of children in child care agencies. The panel released its final report to the Department on July 15, 2002. In the report, the panel made several recommendations relative to improving the manner in which children being cared for in child care agencies are transported.

Upon review of the panel's report and consideration of the review of the evidence in the fatal crash noted above, as well as review of the regulations of the National Highway Transportation Safety Administration and previous reports and recommendations of the National Transportation Safety Board regarding the use of converted vans for the transportation of children, the Department has determined that current regulations contained in the transportation requirements of Chapter 1240-4-6, Licensure Rules for Child Care Centers Serving School-Age Children, should more specifically direct licensees regarding the methods for transporting children in their care such as: (a) more stringent qualifications for child care vehicle drivers and additional training of those drivers; (b) improved structural soundness of vehicles used to carry the children; (c) regular maintenance and daily visual inspections of vehicles used to provide child care; (d) the means of identifying and reporting of vehicles being improperly driven while transporting children; and (e) the effective supervision and protection of children during transportation.

This accident occurred in spite of new regulations developed following two separate incidents on the same day in July 1999 involving the transportation of children, also in Memphis, that led to the deaths of two small children left alone by their drivers in separate, closed, child care agency vans in the hot sun. Additional regulatory measures addressed several issues, including, the accountability for the whereabouts of children being transported by child care agencies, and driver training.

The Department finds that the above-cited incidents, all involving the transportation of children in child care agency situations, demonstrate that: (a) the issue of safe transportation of children is critical; (b) this issue is not adequately addressed by regulations; (c) the large number of children transported daily are being placed at continuing risk; and (d) that such incidents are likely to recur without stronger regulatory direction to child care providers. These incidents, and the lack of adequate regulatory directives to address these issues, represent an immediate danger affecting the public health, safety and welfare. The nature of this danger is such that the use of any other form of rulemaking authorized by Title 4, Chapter 5, Part 2 of the Tennessee Code Annotated would not adequately protect the public.

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

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Natasha K. Metcalf  
Commissioner  
Tennessee Department of Human Services

**EMERGENCY RULES  
OF  
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES  
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-6**

**LICENSURE RULES FOR CHILD CARE CENTERS SERVING SCHOOL-AGE CHILDREN**

Amendments



Paragraph (8) of subchapter 1240-4-6-.06, Organization and Administration, is amended by deleting paragraph (8) in its entirety.

**Authority:** *T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).*

Subparagraph (a) of Paragraph (1) of Rule 1240-4-6-.06, Organization and Administration, is amended by deleting subparagraph (a) in its entirety and by substituting instead the following new language so that, as amended, subparagraph (a) shall read as follows:

- (a) An applicant for a license to operate a child care agency shall submit a written statement to the Department of Human Services governing the following areas:
  - 1. The type of service to be offered to children and parents;
  - 2. Ages of children to be served.
  - 3. Hours of operation;
  - 4. Number and type of meals and snacks to be served;
  - 5. Admission requirements and enrollment procedures;
  - 6. Provision for emergency medical care; and
  - 7. If the agency provides transportation for children in the agency's care, the written statement required by 1240-4-6-.10(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process.

**Authority:** *T.C.A. §§4-5-208; 71-1-105(5); 71-3-502(a)(2).*

Chapter 1240-4-6, Licensure Rules for Child Care Centers Serving School-Age Children, is amended by adding the following new subchapter 1240-4-6-.10, Transportation, and by re-designating the existing subchapter 1240-4-6-.10, Health and Safety, as subchapter 1240-4-6-.11, Health and Safety, and all remaining subchapters and the Table of Contents accordingly:

**1240-4-6-.10 TRANSPORTATION.**

- (1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.
  - (a) Management Responsibility.
    - 1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:
      - (i) The type(s) of transportation that will be offered, e.g., from the child's home to the child care agency, from the child care agency to the child's school, etc.;
      - (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;
      - (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;

- (iv) The provider's plan for maintaining compliance with the transportation time limits set forth in 1240-4-6-.10(6);
  - (v) The provider's policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-4-6-.10(1)(b);
  - (vi) The provider's policy and procedures for attaining and maintaining compliance with the State child safety restraint laws set forth in Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children; and
  - (vii) The provider's policy and procedures for the emergency evacuation of the vehicle.
2. The child care center's management shall be fully responsible for the transportation of children between home and the child care center, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.
  3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the childcare agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-4-6-.06(3).
- (b) Loading\Unloading and Verification Procedures.
1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., "Doe", and who are transported on the same vehicle shall not be recorded by the single entry "Doe" which only records the group's last name and is used by the child care center to signify that all three (3) "Doe" children are accounted for. Each child shall, instead, be separately listed by first and last name.
  2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.
  3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.
  4. Immediately, upon unloading the last child/children from the vehicle and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the child care center in part 5 and shall immediately:
    - (i) physically walk through the vehicle; and
    - (ii) inspect all seat surfaces, under all seats and any and all compartments or recesses in the vehicle's interior.
  5. Additional caregiver/staff review and verification requirements.

- (i) The child care center shall also designate a caregiver or management level staff person, other than the person responsible for the recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and properly accounted for.
  - (ii) When unloading children at the child care center or field trip destinations, or when, prior to being parked at the child care center or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:
    - (I) reconcile the passenger log with the children's attendance records; and
    - (II) conduct the same inspection as required in subparts (1)(b)4.(i) and (ii) above.
  - (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the center for an annual license, whichever is first.
6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.
7. When children are transported to school, they shall be released in accordance with the following procedures:
- (i) the children shall be unloaded only at the location designated by the school;
  - (ii) the children are only allowed to unload from the center's vehicle at the time the school is open to receive them;
  - (iii) the driver/caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and
  - (iv) any additional procedures established by the school.
8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency, that provides such services for children enrolled in the child care agency.
- (c) Transportation Staff Qualifications.
- 1. Driver License Requirements.
    - (i) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry less than ten (10) persons, shall hold a current Tennessee driver license with an "F" (for hire) endorsement pursuant to T.C.A. § 55-50-102(20)(F).

- (ii) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry ten (10) or more persons, shall have a current Tennessee commercial driver license pursuant to T.C.A. § 55-50-102(11).
  - 2. Effective January 1, 2003, all persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.
  - 3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:
    - (i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;
    - (ii) The proper use of child safety restraints set forth in paragraph (4) and Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children;
    - (iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;
    - (iv) The proper use of a blood borne pathogen kit;
    - (v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
    - (vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.
  - 4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-4-6-.10(1)(c)3., above, a minimum of every six (6) months.
  - 5. Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.
  - 6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.
  - 7. The requirements of 1240-4-6-.10(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.
- (2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.

- (a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.
- (b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that designated child care, contractor, or other entity staff perform daily a visual safety inspection of the vehicle, including an inspection of all tires for wear and adequate pressure, an inspection for working lights, brakes, signals, and wiper blades, and an inspection for properly functioning child restraints, doors and windows.
- (c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.
- (d) Beginning July 1, 2003, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.
- (e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency's direction or control shall be made available upon request to Department staff.
- (f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency's direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.
- (g) Special requirements for vehicles designed to carry ten (10) to eighteen (18) passengers which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR):
  - 1. A maximum number of ten (10) individuals, including the driver, all children and all adults, shall be transported in vehicles which are designed to carry ten (10) to eighteen (18) passengers but which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR). Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 2. No individual shall ride, and no cargo, luggage or equipment of any type shall be placed, in the back portion of the vehicle that extends over the rear axle. Exception: The requirements of this part do not apply to vehicles that conform to the FMVSS designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 3. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.
- (h) Requirements for Child Care Transportation Vehicles Effective January 1, 2005.

1. Effective January 1, 2005, all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all FMVSS designated as applicable to school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended. If buses in the class of "large" school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on a large school bus.
  2. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.
    - (i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.
    - (j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
    - (k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.
- (3) Vehicle Signage Requirements; Exceptions.
- (a) The requirements of this paragraph (3) are effective October 1, 2002, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.
  - (b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care by displaying, on both sides of the vehicle and on the rear of the vehicle, the following information:
    1. The full name of the child care agency. If the name of the child care agency does not clearly designate the agency as a child care agency words such as "Child Care Transportation Vehicle" or "Child Care Transportation Services", or similar language as approved by the Department, must be displayed on the vehicle;
    2. An emergency contact phone number for the child care agency; and
    3. The words "Child Care Complaint Hotline" followed by the Department of Human Services toll-free Child Care Complaint Hotline phone number.
  - (c) The information required in subparagraph (b) must be applied to the vehicle using black letters which are at least three (3) inches high and two (2) inches wide. The letters shall appear on a background of "National School Bus Glossy Yellow" in accordance with the colorimetric specification of the National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 13432, in one of the following formats:
    1. Painted directly on the vehicle in accordance with the paint manufacturer's instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or

2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.

(d) Special Requirements for Centralized Transportation.

1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or
2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency

may substitute for the name and phone number of the child care agency required by parts 1240-4-6-.10(3)(b)1. and 2. above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.

(e) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips;
2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle;
3. The Department may, on a case by case basis, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

(4) Child Safety Restraints.

- (a) The provisions of this paragraph (4) shall apply to any vehicle used to transport children as of the effective date of these rules. Any vehicle whether:

1. A passenger car;
2. A stock or custom van or sport utility vehicle;
3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571; or
4. Any other vehicle

must be properly equipped with the child passenger restraints required by subparagraphs (c)—(f) below and must comply with all other provisions of this paragraph (4).

- (b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.

- (c) Children under thirteen (13) months of age or under twenty pounds (20 lbs.) weight shall be placed to face the rear of the vehicle. Children thirteen (13) months of age or older and who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.
  - (d) Children under four (4) years of age who weigh less than forty pounds (40 lbs.) shall be restrained in accordance with the car seat manufacturer's instructions in a Federally-approved car seat which is secured to the vehicle in accordance with the car seat manufacturer's instructions.
  - (e) Children between the ages of four (4) years and eight (8) years who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer's instructions. BPBS devices shall always be used with both a lap belt and a shoulder belt.
  - (f) Children weighing more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") shall be restrained with both an adult lap belt and shoulder belt in accordance with the vehicle manufacturer's instructions.
  - (g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
  - (h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.
  - (i) Notwithstanding the provisions of this paragraph (4), until January 1, 2005, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the "large" category under FMVSS.
- (5) Supervision of Children During Transportation.
- (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) Adult Monitor Requirements for Child Care Transportation.
    - 1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten; provided, however an adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the numbers of children being transported.
    - 2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.
- (6) Limits on Time Children Are Transported/Transportation Waivers.
- (a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
  - (b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.



- (7) The provisions of paragraphs (4)—(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency.

*Authority:* T.C.A. §§ 4-5-208; 55-50-102(11) and (20); 71-1-105(5); 71-3-502(a)(2); 49 Code of Federal Regulations Part 571.

Chapter 1240-4-6, Licensure Rules for Child Care Centers Serving School-Age Children, is amended by changing any existing internal rule references in the Chapter made necessary as a result of the preceding amendments, so that, as amended, all rule citations in the Chapter shall reference the correct rule.

*Authority:* T.C.A. §§ 4-5-208; 71-1-105(5); 71-3-502(a)(2).

The emergency rules set out herein were properly filed in the Department of State on the 21st day of August, 2002 and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 4th day of November, 2002. (08-27)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240  
ADULT AND FAMILY SERVICES DIVISION  
CHAPTER 1240-4-4**

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

On April 4, 2002, a fifteen passenger van operated by a child care agency licensed by the Department of Human Services and located in Memphis, Tennessee, ran off an interstate highway in the city and crossed a ditch, careened off a guardrail, hit a utility pole and then hit the embankment around an overpass in a single vehicle accident, on an otherwise clear day. Four children in the care of the child care agency as well as the van's driver were killed, and two other children were seriously injured.

Subsequent to this tragedy, the Governor appointed a panel to review the status of transportation of children in child care agencies. The panel released its final report to the Department on July 15, 2002. In the report, the panel made several recommendations relative to improving the manner in which children being cared for in child care agencies are transported.

Upon review of the panel's report and consideration of the review of the evidence in the fatal crash noted above, as well as review of the regulations of the National Highway Transportation Safety Administration and previous reports and recommendations of the National Transportation Safety Board regarding the use of converted vans for the transportation of children, the Department has determined that current regulations contained in the transportation requirements of Chapter 1240-4-4, Standards for Family Day Care Homes, should more specifically direct licensees regarding the methods for transporting children in their care such as: (a) more stringent qualifications for child care vehicle drivers and additional training of those drivers; (b) improved structural soundness of vehicles used to carry the children; (c) regular maintenance and daily visual inspections of vehicles used to provide child care; (d) the means of identifying and reporting of vehicles being improperly driven while transporting children; and (e) the effective supervision and protection of children during transportation.

This accident occurred in spite of new regulations developed following two separate incidents on the same day in July 1999 involving the transportation of children, also in Memphis, that led to the deaths of two small children left alone by their drivers in separate, closed, child care agency vans in the hot sun. Additional regulatory measures addressed several issues, including, the accountability for the whereabouts of children being transported by child care agencies, and driver training.

The Department finds that the above-cited incidents, all involving the transportation of children in child care agency situations, demonstrate that: (a) the issue of safe transportation of children is critical; (b) this issue is not adequately addressed by regulations; (c) the large number of children transported daily are being placed at continuing risk; and (d) that such incidents are likely to recur without stronger regulatory direction to child care providers. These incidents, and the lack of adequate regulatory directives to address these issues, represent an immediate danger affecting the public health, safety and welfare. The nature of this danger is such that the use of any other form of rulemaking authorized by Title 4, Chapter 5, Part 2 of the Tennessee Code Annotated would not adequately protect the public.

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

Natasha K. Metcalf  
Commissioner  
Tennessee Department of Human Services

**EMERGENCY RULES  
OF  
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES  
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-4**

**STANDARDS FOR FAMILY DAY CARE HOMES**

**AMENDMENTS**

Chapter 1240-4-4, Standards for Family Day Care Homes, is amended by deleting the language in the title of the Chapter "Standards for Family Day Care Homes, and by substituting instead the language "Standards for Family Child Care Homes", so that, as amended, the new title shall read "Chapter 1240-4-4, Standards for Family Child Care Homes".

Paragraph (2) of Rule 1240-4-4-.02, Ownership and Administration, is amended by deleting subparagraph (b) in its entirety and by substituting instead the following new language so that, as amended, subparagraph (b) shall read as follows:

- (b) A family child care home shall have written policies concerning
  1. Services offered;
  2. Provision for children's individual needs;
  3. The home's admission policies and enrollment procedures;
  4. Fees charged (if applicable) and plan for payment;

5. Handling of children's personal belongings; and
6. If the agency provides transportation for children in the agency's care, the written statement required by 1240-4-4-.07(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process and parental permission for trips away from facility.

*Authority:* T.C.A. §§ 4-5-208; 71-1-105(5); 71-3-502(a)(2).

Paragraph (7) of subchapter 1240-4-4-.02, Ownership and Administration, is amended by deleting paragraph (7) in its entirety and by re-designating existing paragraph (8) as paragraph (7).

*Authority:* T.C.A. §§ 4-5-208; 71-1-105(5); 71-3-502(a)(2).

Chapter 1240-4-4, Standards for Family Child Care Homes, is amended by adding the following new subchapter 1240-4-4-.07, Transportation, and by re-designating the existing subchapter 1240-4-4-.07, Food, as subchapter 1240-4-4-.08, Food, and by re-designating all remaining subchapters and the Table of Contents accordingly:

#### **1240-4-4-.07 TRANSPORTATION.**

- (1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.
  - (a) Management Responsibility.
    1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:
      - (i) The type(s) of transportation that will be offered, e.g., from the child's home to the child care agency, from the child care agency to the child's school, etc.;
      - (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;
      - (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;
      - (iv) The provider's plan for maintaining compliance with the transportation time limits set forth in 1240-4-4-.07(6);
      - (v) The provider's policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-4-4-.07(1)(b);
      - (vi) The provider's policy and procedures for attaining and maintaining compliance with the State child safety restraint laws set forth in Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children; and
      - (vii) The provider's policy and procedures for the emergency evacuation of the vehicle.
    2. The family child care home's management shall be fully responsible for the transportation of children between home and the family child care home, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.

3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-4-4-.02(7).
- (b) Loading\Unloading and Verification Procedures.
1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., "Doe", and who are transported on the same vehicle shall not be recorded by the single entry "Doe" which only records the group's last name and is used by the family child care home to signify that all three (3) "Doe" children are accounted for. Each child shall, instead, be separately listed by first and last name.
  2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.
  3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.
  4. Immediately, upon unloading the last child/children from the vehicle and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the family child care home in part 5 and shall immediately:
    - (i) physically walk through the vehicle; and
    - (ii) inspect all seat surfaces, under all seats and any and all compartments or recesses in the vehicle's interior.
  5. Additional caregiver/staff review and verification requirements.
    - (i) In instances when the driver in part (4) is working under the direction or control of the family child care home, but is not the sole caregiver, or when more than one caregiver is required, then, when unloading children at the family child care home or during field trips, or when, prior to being parked at the family child care home or other location, and to ensure that all children have been unloaded, the family child care home shall designate a caregiver other than the person responsible for recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and have been properly accounted for
    - (ii) When unloading children at the family child care home or field trip destinations, or when, prior to being parked at the family child care home or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:
      - (I) reconcile the passenger log with the children's attendance records; and

- (II) conduct the same inspection as required in subparts (1)(b)4.(i) and (ii) above.
  - (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the family child care home for an annual license, whichever is first.
6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.
  7. When children are transported to school, they shall be released in accordance with the following procedures:
    - (i) the children shall be unloaded only at the location designated by the school;
    - (ii) the children are only allowed to unload from the family child care home's vehicle at the time the school is open to receive them;
    - (iii) the driver/ caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and
    - (iv) any additional procedures established by the school.
  8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency that provides such services for children enrolled in the child care agency.
- (c) Transportation Staff Qualifications.
1. Driver License Requirements.
    - (i) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry less than ten (10) persons, shall hold a current Tennessee driver license with an "F" (for hire) endorsement pursuant to T.C.A. § 55-50-102(20)(F).
    - (ii) Effective January 1, 2003, all persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency that is designed by the vehicle manufacturer to carry ten (10) or more persons, shall have a current Tennessee commercial driver license pursuant to T.C.A. § 55-50-102(11).
  2. Effective January 1, 2003 all persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual that are signed by the examining licensed physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.

3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:
    - (i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b)below;
    - (ii) The proper use of child safety restraints set forth in paragraph (4) and Tennessee Code Annotated, Title 55, Chapter 9, Part 6 and applicable Federal Motor Vehicle Safety Standards relative to child safety restraint systems and vehicle design requirements for the type of vehicle used to transport children;
    - (iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;
    - (iv) The proper use of a blood-borne pathogen kit;
    - (v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
    - (vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.
  4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-4-4-.07(1)(c)3., above, a minimum of every six (6) months.
  5. Effective January 1, 2003 all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/ Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.
  6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.
  7. The requirements of 1240-4-4-.07(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.
- (2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.
- (a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.
  - (b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that designated child care, contractor or other entity staff, perform daily a visual safety inspection of the vehicle, including an inspection of all tires for wear and adequate pressure, an inspection for working lights, brakes, signals, and wiper blades, and an inspection for properly functioning child restraints, doors and windows.

- (c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain documentation that the vehicles used to transport children receive regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer.
- (d) Beginning July 1, 2003, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.
- (e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency's direction or control shall be made available upon request to Department staff.
- (f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency's direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.
- (g) Special requirements for vehicles designed to carry ten (10) to eighteen (18) passengers which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR):
  - 1. A maximum number of ten (10) individuals, including the driver, all children and all adults, shall be transported in vehicles which are designed to carry ten (10) to eighteen (18) passengers but which weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR). Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 2. No individual shall ride, and no cargo, luggage or equipment of any type shall be placed, in the back portion of the vehicle that extends over the rear axle. Exception: The requirements of this part do not apply to vehicles that conform to the Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to small school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended.
  - 3. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.
- (h) Requirements for Child Care Transportation Vehicles Effective January 1, 2005.
  - 1. Effective January 1, 2005, all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) designated as applicable to school buses in 49 Code of Federal Regulations Part 571, or as such Part may be amended. If buses in the class of "large" school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on a large school bus.
  - 2. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.

- (i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.
- (j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
- (k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.

(3) Vehicle Signage Requirements; Exceptions.

- (a) The requirements of this paragraph (3) are effective October 1, 2002, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.
- (b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care by displaying, on both sides of the vehicle and on the rear of the vehicle, the following information:
  - 1. The full name of the child care agency. If the name of the child care agency does not clearly designate the agency as a child care agency words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language as approved by the Department, must be displayed on the vehicle;
  - 2. An emergency contact phone number for the child care agency; and
  - 3. The words “Child Care Complaint Hotline” followed by the Department of Human Services toll-free Child Care Complaint Hotline phone number.
- (c) The information required in subparagraph (b) must be applied to the vehicle using black letters which are at least three (3) inches high and two (2) inches wide. The letters shall appear on a background of “National School Bus Glossy Yellow”, in accordance with the colorimetric specification of National Institute of Standards and Technology (NIST) Federal Standard No. 595a, Color 13432 in one of the following formats:
  - 1. Painted directly on the vehicle in accordance with the paint manufacturer’s instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or
  - 2. A weather-resistant sign securely fastened to the vehicle. The term “securely fastened” includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.
- (d) Special Requirements for Centralized Transportation.
  - 1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or



2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency

may substitute for the name and phone number of the child care agency required by parts 1240-4-4-.07(3)(b)1. and 2 above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as “Child Care Transportation Vehicle” or “Child Care Transportation Services”, or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.

(e) Exceptions to Vehicle Identification Requirements.

1. Vehicles used exclusively for the provision of occasional field trips;
2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle;
3. The Department may, on a case by case basis, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a “public agency” is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

(4) Child Safety Restraints.

- (a) The provisions of this paragraph (4) shall apply to any vehicle used to transport child as of the effective date of these rules. Any vehicle whether:

1. A passenger car;
2. A stock or custom van or sport utility vehicle;
3. A school bus classified as a “small” or “large” bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571 ; or
4. Any other vehicle

must be properly equipped with the child passenger restraints required by subparagraphs (c)—(f) below and must comply with all other provisions of this paragraph (4).

- (b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.
- (c) Children under thirteen (13) months of age or who are under twenty pounds (20 lbs.) weight shall be placed to face the rear of the vehicle. Children thirteen (13) months of age or older and who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.
- (d) Children under four (4) years of age who weigh less than forty pounds (40 lbs.) shall be restrained in accordance with the car seat manufacturer’s instructions in a Federally-approved car seat which is secured to the vehicle in accordance with the car seat manufacturer’s instructions.

- (e) Children between the ages of four (4) years and eight (8) years who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer's instructions. BPBS devices shall always be used with both a lap belt and a shoulder belt.
  - (f) Children weighing more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") shall be restrained with both an adult lap belt and shoulder belt in accordance with the vehicle manufacturer's instructions.
  - (g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
  - (h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.
  - (i) Notwithstanding the provisions of this paragraph (4), until January 1, 2005, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the "large" category under Federal Motor Vehicle Safety Standards (FMVSS).
- (5) Supervision of Children During Transportation.
- (a) An adult must be in the vehicle whenever a child is in the vehicle.
  - (b) Adult Monitor Requirements for Child Care Transportation.
    - 1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten; provided, however an adult monitor, in addition to the driver, is required on the vehicle for all routes exceeding thirty (30) minutes for children ages six (6) weeks through five (5) years of age, who are not in kindergarten, regardless of the numbers of children being transported.
    - 2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.
  - (c) On field trips (whether on foot or in a vehicle), an additional caregiver, in addition to any monitor required by subparagraph (b), shall be present to help with supervision.
- (6) Limits on Time Children Are Transported/Transportation Waivers.
- (a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
  - (b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.
- (7) The provisions of paragraphs (4)—(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency

**Authority:** *T.C.A. §§ 4-5-208; 55-50-102(11) and (20); 71-1-105(5); 71-3-502(a)(2); 49 Code of Federal Regulations Part 571.*

Chapter 1240-4-4, Standards for Family Day Care Homes, is amended by changing any existing internal rule references in the Chapter made necessary as a result of the preceding amendments, so that, as amended, all rule citations in the Chapter shall reference the correct rule.

**Authority:** *T.C.A. §§ 4-5-208; 71-1-105(5); 71-3-502(a)(2).*

The emergency rules set out herein were properly filed in the Department of State on the 21st day of August, 2002 and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 2nd day of February, 2002. (08-29)

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## **PROPOSED RULES**

### **THE TENNESSEE STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS - 0660**

#### **CHAPTER 0660-10 CONTINUING EDUCATION**

Presented herein are proposed amendments of the Tennessee State Board of Funeral Directors and Embalmers submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing and in accordance with Chapter 187 of the Public Acts of 2001. It is the intent of the Board of Funeral Directors and Embalmers to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Legal Office of the Department of Commerce and Insurance, Twenty-fifth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243 and in the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee 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 the text of these proposed rules, contact: Cecil H. Ross, Staff Attorney, Department of Commerce and Insurance, Twenty-fifth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243; telephone (615) 741-3072.

The text of the proposed rules is as follows:

#### **AMENDMENTS**

Rule 0660-10-.04 Qualifying Continuing Education Programs is amended by deleting the text of paragraph (3) in its entirety and substituting instead the following language so that, as amended, paragraph (3) shall read:

- (3) (a) Program sponsors shall submit a program schedule and outline to the Board, which must be received by the Board not less than sixty (60) days prior to the date of the program. Such schedule and outline shall include the following information:
1. The name of the course;
  2. The name of the sponsoring organization;
  3. The objectives of the program;
  4. The length (in hours) of the program and the date(s) on which the program will be presented;
  5. The names, educational backgrounds and relevant qualifications of all instructors or speakers participating in the program;
  6. The location(s) at which the program will be presented; and

7. The name and address of the person authorized by the sponsor to certify attendance.
- (b) The Board may grant leave to amend a program schedule and outline upon receipt of a proper application therefor. Such application must be submitted pursuant to paragraph (3)(a) of this rule, and must be received by the Board not less than thirty (30) days prior to the date of the program. Such amendment shall identify the program to which it refers and shall contain a description of the purpose and substance of the amendment. In evaluating any such application for amendment, the Board may consider:
1. The occurrence of any material change of law or fact after the submission of the original program schedule that affects the subject matter of the program;
  2. The desirability of adding any particular speaker or means of instruction which had been unavailable at the time the original program schedule was submitted;
  3. The inability of a scheduled speaker to participate due to reasons unforeseen at the time of the submission of the original program schedule; or
  4. Any other reason not foreseeable at the time of the submission of the original program schedule which would result in undue hardship to sponsors, producers, customers or other participants unless the program were amended.

**Authority:** T.C.A. §§ 62-5-203, 62-5-603 and 62-5-605.

Rule 0660-10-.04 Qualifying Continuing Education Programs is further amended by inserting the following language after paragraph (3) as a new paragraph (4) and by renumbering the subsequent paragraphs appropriately:

- (4) (a) Upon receipt of a program schedule and outline as required by this rule, the Board shall notify the program sponsor of approval or disapproval of the program no less than thirty (30) days prior to the scheduled date of the program. Any notice of disapproval shall state the reason(s) therefor.
- (b) Upon receipt of any proposed amendment to a program schedule and outline submitted in accordance with this rule, the Board shall notify the program sponsor of approval or disapproval no less than ten (10) days prior to the scheduled date of the program. Any notice of disapproval shall state the reason(s) therefor.

**Authority:** T.C.A. §§ 62-5-203, 62-5-603 and 62-5-605.

The proposed rules set out herein were properly filed in the Department of State on the 29th day of August, 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 December, 2002. (08-56)

**THE TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640****CHAPTER 1640-1-1  
TENNESSEE STUDENT ASSISTANCE PROGRAM**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, Administrative Procedures Division, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 1640-1-1-.02, Student Eligibility-Award Use, Paragraph (3) is amended by deleting the last sentence and adding the following two new sentences. "All state financial aid granted to students shall be first applied to tuition and fees, room and board and the excess, if any, shall be distributed to the recipient according to Title IV of the Higher Education Act of 1965, as amended. Payment may be made by warrant or through Automated Clearing House (ACH). If ACH is used, the institution must agree, in writing, to directly apply funds to the recipient account." As amended, Paragraph (3) shall read as follows:

- (3) Award recipients must use assistance awards for educationally related expenses. A recipient to whom credit has been extended during the enrollment process should give first priority to the liquidation of that obligation before using the proceeds of the awards to defray other educational expenses. All state financial aid granted to students shall be first applied to tuition and fees, room and board and the excess, if any, shall be distributed to the recipient according to Title IV of the Higher Education Act of 1965, as amended. Payment may be made by warrant or through Automated Clearing House (ACH). If ACH is used, the institution must agree, in writing, to directly apply funds to the recipient account.

**Authority:** *T.C.A. §49-4-203, §49-4-204, §49-4-209, §49-4-301 and §49-4-302*

The proposed rules set out herein were properly filed in the Department of State on the 28th day of August, 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 December, 2002. (08-43)

**THE TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640****CHAPTER 1640-1-9  
NED MCWHERTER SCHOLARS PROGRAM**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, Administrative Procedures Division, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 1640-1-9-.04, Scholarship Amount, Length, and Intervals of Payments, Paragraph (6) is amended by inserting "If the school participates in Automated Clearing House, the funds will be sent by direct deposit to the school and the school will be directed to deliver the funds to the honoree." immediately following the first sentence. As amended, Paragraph (6) shall read as follows:

- (6) Scholarship payments will be made to the student at the beginning of each term provided the student remains eligible according to (3) and (4) above. If the school participates in Automated Clearing House, the funds will be sent by direct deposit to the school and the school will be directed to deliver the funds to the honoree. At institutions utilizing the quarter system, one-third of the annual award will be paid at the start of the fall, winter, and spring quarters. At semester institutions, one-half of the annual award will be paid at the start of the fall and spring terms.

**Authority:** *T.C.A. §49-4-203 and §49-4-204*

The proposed rules set out herein were properly filed in the Department of State on the 6th day of August, 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 December, 2002. (08-11)



**THE TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640****CHAPTER 1640-1-13  
MINORITY TEACHING FELLOWS PROGRAM**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, Administrative Procedures Division, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 1640-1-13-.05, Loan Amount and Terms, Paragraph (1) is amended by deleting it in its entirety and replacing it with the following:

- (1) All loans shall be evidenced by notes payable to the Tennessee Student Assistance Corporation. Awards will be sent to the college financial aid office or business office each quarter or semester in the recipient's name and shall be disbursed on a quarter or semester pro rata basis. If the institution participates in Automated Clearing House, the funds will be sent by direct deposit to the institution and the institution will be directed to deliver the funds to the recipient. The maximum award for a recipient in any fiscal year is \$5,000. If the recipient receives other educational assistance for the same period(s), the total assistance including this award is limited to the recipient's cost of attendance, as determined by the college financial aid office.

**Authority:** *T.C.A. §49-4-204 and §49-4-706*

The proposed rules set out herein were properly filed in the Department of State on the 6th day of August, 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 ay of December, 2002. (08-12)

**THE TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640****CHAPTER 1640-1-16  
ROBERT C. BYRD HONORS SCHOLARSHIP**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, Administrative Procedures Division, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 1640-1-16-.04, Award Procedures. Paragraph (5) is amended by deleting it in its entirety and replacing it with the following:

- (5) The amount of the annual award will be determined by federal appropriations. The warrant will be made payable to the honoree but will be sent to the school for delivery. If the school participates in Automated Clearing House, the funds will be sent by direct deposit to the school and the school will be directed to deliver the funds to the honoree. The award will be paid in at least two disbursements.

*Authority: T.C.A. §49-4-203 and §49-4-204.*

The proposed rules set out herein were properly filed in the Department of State on the 6th day of August, 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 December, 2002. (08-13)

**THE TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640****CHAPTER 1640-1-17  
TENNESSEE TEACHING SCHOLARS PROGRAM**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, Administrative Procedures Division, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 1640-1-17-.05, Loan Amount and Terms, Paragraph (2) is amended in its entirety and replacing it with the following:

- (2) Funds will be sent by warrant or Automated Clearing House (ACH) one term at a time to the institution's financial aid office or business office in the recipient's name. If the institution participates in ACH, the funds will be sent by direct deposit to the institution and the institution will be directed to deliver the funds to the recipient. Prior to disbursing the warrant or ACH to the student, the institution shall ensure that the recipient is enrolled in a teacher education program for the number of hours for which the warrant or ACH is issued for the appropriate academic term, and is making satisfactory progress in accordance with the Act.

**Authority:** *T.C.A. §49-4-204 and §49-4-212*

The proposed rules set out herein were properly filed in the Department of State on the 6th day of August, 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 December, 2002. (08-14)

**TENNESSEE HIGHER EDUCATION COMMISSION - 1710****CHAPTER 1710-1-2****ADMINISTRATION OF THE TUITION GUARANTY FUND**

Presented herein is a proposed amendment of the Tuition Guaranty Fund Board of Directors submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tuition Guaranty Fund Board of Directors 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 to the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed in Suite 1900 of Parkway Towers located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0830 and in the Department of State, Administrative Procedures Division, Eighth Floor, William R. Snodgrass Tower, 312 Eight Avenue North, Nashville, Tennessee 37243 and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of proposed rule, contact: Teresa Warren, Suite 1900, Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37243-0830, (615) 741-5293.

The text of the proposed amendments is as follows:

**AMENDMENTS**

Subparagraph (b) of Paragraph 1 of rule 1710-1-2-.09 Basis and Procedure For Disbursement of Funds is amended by the deleting the rule in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (b) A claim for reimbursement of unearned tuition shall be made against the Fund within two years of the cessation of operation and forwarded to the licensure staff of the Tennessee Higher Education Commission. Claims must be accompanied by such documents as receipts or cancelled checks, or executed enrollment agreements which document tuition payment. Whenever appropriate documentation is not provided and the Board determines that availability of documentation is beyond the control of the claimant, the Board has the authority to determine the validity and appropriate monetary level of any claim. The Board will act on the claim in a timely manner and will provide to the claimant a written explanation for any action taken, or any basis for delay of action, by the Board. Whenever a claim is based on borrowed tuition, the Board may make any claim payment payable to the lender and/or claimant for that portion of the claim which is unpaid as of the date of action by the Board. There shall be no right for reimbursement of unearned tuition except through the Fund. In the event the Fund is depleted, any unpaid claims for reimbursement properly filed pursuant to this rule shall be retained and acted upon by the Board at such time as the Fund balance is restored.

**Authority:** T.C.A. §49-7-2018.

The proposed rules set out herein were properly filed in the Department of State on the 5th day of August, 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 December, 2002. (08-06)

## **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)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public necessity rules dealing with Medicaid and TennCare programs, Chapter 1200-13-13 TennCare Medicaid, 8 T.A.R. (August 2002) - Filed July 1, 2002; effective through December 13, 2002. (07-02)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public necessity rules dealing with Medicaid and TennCare programs, Chapter 1200-13-14 TennCare Standard, 8 T.A.R. (August 2002) - Filed July 1, 2002; effective through December 13, 2002. (07-01)
- 1240 - Department of Human Services - Family Assistance Division - Public Necessity rules concerning the Families First Program, chapter 1240-1-50 Standard of Need/Income, 8 T.A.R. (August 2002) - Filed July 3, 2002; effective December 15, 2002; effective through December 15, 2002. (07-03)
- 1240 - Department of Human Services - Family Assistance Division - Public Necessity rules concerning the Families First Program, chapter 1240-1-50 Standard of Need/Income, 8 T.A.R. (August 2002) - Filed July 8, 2002; effective December 15, 2002; effective through December 20, 2002. (07-06)

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## **RULEMAKING HEARINGS**

### **THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780 DIVISION OF INSURANCE**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the repeal of rules. 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 Conference Room A on the Fifth Floor of the Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. CST on the 16<sup>th</sup> day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee 37243 (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Kevin W. Rhoten, Staff Attorney, Department of Commerce and Insurance, 25th Floor, Tennessee Tower, 312 Eighth Avenue North. Nashville, TN 37243, telephone (615) 741-2199.

### **SUBSTANCE OF PROPOSED REPEALS**

#### **CHAPTER 0780-1-22 RELATING TO CERTIFICATES OF INSURANCE USED IN CONNECTION WITH CASUALTY INSURANCE POLI- CIES**

#### **REPEALS**

Chapter 0780-1-22 Relating to Certificates of Insurance Used in Connection with Casualty Insurance Policies is repealed.

*Authority: T.C.A. §56-2-301.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-49)

**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780  
DIVISION OF INSURANCE**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the repeal of rules. 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 Conference Room A on the Fifth Floor of the Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. CST on the 16<sup>th</sup> day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee 37243 (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Kevin W. Rhoten, Staff Attorney, Department of Commerce and Insurance, 25th Floor, Tennessee Tower, 312 Eighth Avenue North. Nashville, TN 37243, telephone (615) 741-2199.

**SUBSTANCE OF PROPOSED REPEALS**

**CHAPTER 0780-1-23  
RELATING TO INSTALLMENT MAINTENANCE FEE**

**REPEALS**

Chapter 0780-1-23 Relating to the Installment Maintenance Fee is repealed.

*Authority: T.C.A. §56-2-301.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-48)

**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780  
DIVISION OF INSURANCE**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the repeal of rules. 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 Conference Room A, Fifth Floor, Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee at 10 a.m. CST on the 16th day of October, 2002.



Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review such filings), to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee, 37243, (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Susan J. Geist, Staff Attorney, Department of Commerce and Insurance, 25th Floor, Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee, 37243, telephone (615) 741-2199.

**SUBSTANCE OF PROPOSED REPEALS**  
**CHAPTER 0780-1-26**  
**AGENTS WRITING TRAVEL ACCIDENT OR TRAVEL PERSONAL PROPERTY INSURANCE**  
**REQUIRED TO PASS WRITTEN EXAMINATION**

**REPEALS**

Chapter 0780-1-26 Agents Writing Travel Accident or Travel Personal Property Insurance Required To Pass Written Examination is repealed.

*Authority:* T.C.A. §56-6-160.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-52)

**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780**  
**INSURANCE DIVISION**

There will be a hearing before the Insurance Division of the Department of Commerce and Insurance ("Division") to consider the promulgation of amendments of rules in Chapter 0780-1-31. 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 Conference Room A, on the Fifth Floor of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:00 a.m. CST on the 16th day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at (615) 741-2176.

For a copy of this notice of rulemaking hearing, please contact John F. Morris, Staff Attorney, at (615) 741-2199.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0780-1-31  
ARTICLES OF ASSOCIATION AND RULES OF PRACTICE**

**REPEAL**

Chapter 0780-1-31 Articles of Association and Rules of Practice is repealed.

*Authority:* *Tenn. Pub. Acts 1992, ch. 638, § 3, Tenn. Pub. Acts 1992, ch. 639, § 3, and T.C.A. §56-2-301.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-53)

**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780  
DIVISION OF INSURANCE**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the repeal of rules. 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 Conference Room A on the 5<sup>th</sup> Floor of the Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. CST on the 16th day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party intends to review such filings, to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department’s ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee 37243 (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Julie W. Buhrman, Staff Attorney, Department of Commerce and Insurance, 25th Floor, Tennessee Tower, 312 Eighth Avenue North. Nashville, TN 37243, telephone (615) 741-2199.

**SUBSTANCE OF PROPOSED REPEALS  
CHAPTER 0780-1-45  
RELATING TO MEDICARE SUPPLEMENT INSURANCE**

**REPEALS**

Chapter 0780-1-45 Relating to Medicare Supplement Insurance is repealed.

*Authority:* *Chapter No. 735 of the Public Acts of 1992 and Tenn. Code Ann. §56-2-301.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-50)

**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780**  
**DIVISION OF FIRE PREVENTION**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of amendments to rules pursuant to Tenn. Code Ann § 68-105-116(a). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-202, and will take place in Room 640, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. on the 21st day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review such findings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243, at (615) 532-9106.

For a copy of this notice of rulemaking hearing, contact: Kay Searcy, Administrative Director, Division of Fire Prevention, 500 James Robertson Parkway, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-2981.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0780-2-17**  
**LIQUEFIED PETROLEUM GAS SAFETY REGULATIONS**

**AMENDMENTS**

Rule 0780-2-17-.02 Adoption by Reference is amended by deleting the text of the rule in its entirety and substituting instead the following language, so that, as amended, the rule shall read:

- (1) Unless otherwise provided by applicable law or the provisions of this Chapter, the required minimum standards of engaging in the liquefied petroleum gas business in the State of Tennessee shall be those prescribed in Tenn. Code Ann. Title 68, Chapter 135 et seq. and those in the following publications published by the National Fire Protection Association, Inc. (NFPA), Post Office Box 9101 Batterymarch Park, Quincy, Massachusetts 10029-9101:
  - (a) The 1998 edition of NFPA 58, Standard for the Storage and Handling of Liquefied Petroleum Gases, in its entirety; however, excluding the following sections and chapters: Chapter 6 including sections 6-1, 6-2, 6-4, 6-5, all of Chapter 8, and all of Chapter 10; and
  - (b) Those applicable portions of the 1999 edition of NFPA 54, National Fuel Gas Code that are related to LP Gas in the vapor phase.
- (2) In the event of a conflict or inconsistency between these codes adopted by reference, the more stringent code provision shall control; and in the event of a conflict or inconsistency between these codes adopted by reference and Tenn. Code Ann. Title 68, Chapter 135, the provisions of Title 68, Chapter 135 shall control.
- (3) Except where the context requires otherwise and in no way excluding the NFPA definitions adopted by reference, these rules adopt the same purpose and definitions as found in Tenn. Code Ann. § 68-135-101.

**Authority:** *T.C.A.. §§68-135-101, 68-135-107, and 68-102-113.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-54)

## BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-17-105. 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 Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 18th day of December, 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 5<sup>th</sup> Avenue North, 1<sup>st</sup> Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

### SUBSTANCE OF PROPOSED RULES

#### AMENDMENTS

Rule 1370-1-.03, Necessity of Licensure or Registration, is amended by deleting subparagraph (5) (e) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (5) (e) shall read:

- (5)(e) Persons who reside in another state, territory, or foreign country or province which does not grant certification or licensure as a speech language pathologist or audiologist may offer speech language pathology and/or audiology services in the State of Tennessee for a total of not more than five (5) days in any calendar year, provided that that person meets the qualifications and requirements of the Tennessee Board at the time the person offers such speech language pathology and/or audiology services in this State.

*Authority:* T.C.A. §§4-5-202, 4-5-204, 63-17-105, and 63-17-114.

Rule 1370-1-.09, Renewal of License, is amended by deleting parts (1) (c) 1. and (1) (c) 3. in their entirety and substituting instead the following language, so that as amended, the new parts (1) (c) 1. and (1) (c) 3. shall read:

- (1) (c) 1. A completed Renewal Application form;
- (1) (c) 3. Attestation on the Renewal Application form to indicate and certify completion of continuing education requirements pursuant to Rule 1370-1-.12.

*Authority:* T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-116, and 63-17-124.

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

- (2) (b) Each licensee on the biennial renewal form must attest to completion of the required continuing education hours and that such hours were obtained during the during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.

*Authority:* T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-116, and 63-17-124.

Rule 1370-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by deleting subparagraphs (1) (b) in its entirety and renumbering the remaining subparagraphs accordingly.

*Authority:* T.C.A. §§4-5-105, 4-5-202, 63-17-105, and 63-17-117.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of August, 2002. (08-41)

**THE 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 Wednesday the 16th day of October 2002.

Written comments will be included in the hearing records if received by the close of business Oct. 16, 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 Oct. 16, 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 at 615-532-0604. 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 615-532-0604.

**CHAPTER 1200-3-9  
CONSTRUCTION AND OPERATING PERMITS  
AMENDMENTS**

Rule 1200-3-9-.03 General Provisions is amended by adding a Paragraph (8) as follows:

- (8) The Technical Secretary may include on all permits issued under the Tennessee Air Quality Act conditions to directly impose all provisions applicable to sources that are necessary under the federal Clean Air Act and effective federal regulations pursuant to this act, e.g., National Emission Standards for Hazardous Air Pollutants, as well as provisions necessary under Tenn. Code Ann. 68-201-101 et. seq. and rules of this Division 1200-3. Issuance of a permit containing conditions imposing such applicable provisions necessary under the federal Clean Air Act and effective federal regulations pursuant to this act shall not be treated as a repeal by implication of any otherwise applicable provisions of Division 1200-3. That is, simply the inclusion of such conditions containing federal standards or requirements that are less restrictive than standards or requirements in Division 1200-3 concerning the same matter shall not thereby effect a relaxation of the more restrictive provisions of Division 1200-3.

*Authority:* T.C.A. §§68-25-105 and 4-5-202 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2002. (08-47)

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

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the Sullivan County Courthouse, Main Courtroom, Main Street, Blountville, Tennessee 37617 on October 17<sup>th</sup>, 2002, at 7:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

**SUBSTANCE OF PROPOSED RULES**

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

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

<u>Site Number</u>	<u>Site Name</u>
	Sullivan County (82)
82-544	Vance Tank Road Battery Site Bristol, TN

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 6th day of August, 2002. (08-10)

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

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendments to rules and repeal of 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 16<sup>th</sup> day of October, 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](http://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.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 1200-8-17**

**ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL REHABILITATION TREATMENT FACILITIES**

**CHAPTER 1200-8-18**

**ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL TREATMENT FACILITIES**

**CHAPTER 1200-8-19**

**ALCOHOL AND OTHER DRUGS OF ABUSE DUI SCHOOL FACILITIES**

**CHAPTER 1200-8-20**

**ALCOHOL AND OTHER DRUGS OF ABUSE PREVENTION PROGRAM FACILITIES**

**CHAPTER 1200-8-21**  
**ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL NARCOTIC TREATMENT FACILITIES**

**CHAPTER 1200-8-22**  
**ALCOHOL AND OTHER DRUGS OF ABUSE HALFWAY HOUSE TREATMENT FACILITIES**

**CHAPTER 1200-8-23**  
**ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL DETOXIFICATION TREATMENT FACILITIES**

**AMENDMENTS**

Rule 1200-8-17-.04, Administration, is amended by deleting part (2)(i)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(i)1 shall read:

- (2) (i) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

*Authority:* T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-17-.06, Basic Services, is amended by deleting subparagraph (3)(d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3)(d) shall read:

- (3) (d) The Medical Director shall be responsible for the medical care in the facility. The Medical Director shall:
1. Ensure the delivery of emergency and medical care when the client's attending physician or his/her designated alternate is unavailable;
  2. Make periodic visits to the facility to evaluate the existing conditions and make recommendations for improvements;
  3. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

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

Rule 1200-8-17-.06, Basic Services, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Nursing Services.
- (a) If the facility's services include medication administration, the facility shall have a written agreement with a registered nurse to supervise medication administration and to provide nursing services as needed.
  - (b) Nursing services shall supervise the administration of medication.
    1. The facility shall consider the clients' ability and training when supervising the administration of medication.



2. The facility shall ensure that prescription medications are taken only by clients for whom they are prescribed and in accordance with the direction of a physician.
3. The facility shall ensure that medications are stored in a locked container which ensures proper conditions of security, sanitation and prevents accessibility to any unauthorized person.
4. The facility shall dispose of discontinued and/or outdated medications and containers with worn, illegible, or missing labels.
5. All medication errors, drug reactions, or suspected over-medications shall be reported to the practitioner who prescribed the drug.
6. Documentation of the current prescription of each medication taken by a client shall be maintained by the facility.

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

Rule 1200-8-17-.06, Basic Services, is amended by deleting subparagraph (10)(b) in its entirety and renumbering the remaining subparagraphs accordingly.

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

Rule 1200-8-17-.07, Building Standards, is amended by deleting paragraphs (22) and (24) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (22) and (24) shall read:

- (22) A minimum of eighty (80) square feet of bedroom space shall be provided each resident. No bedroom shall have more than four (4) beds, except those existing facilities licensed prior to these regulations. Privacy screens or curtains shall be provided and used when requested by the resident.
- (24) Each toilet, lavatory, bath or shower shall serve no more than twelve (12) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.

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

Rule 1200-8-18-.04, Administration, is amended by deleting part (2)(i)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(i)1 shall read:

- (2) (i) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-18-.06, Basic Services, is amended by deleting part (1)(b)1 in its entirety and substituting instead the following language, so that as amended, the new part (1)(b)1 shall read:

- (1) (b) 1. Developed within thirty (30) days of admission or by the end of the third face-to-face treatment contact with qualified alcohol and other drug abuse personnel, whichever occurs first;

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

Rule 1200-8-18-.06, Basic Services, is amended by deleting subparagraphs (3)(c) and (3)(d) in their entirety.

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

Rule 1200-8-18-.06, Basic Services, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Nursing Services.
  - (a) If the facility's services include medication administration, the facility shall have a written agreement with a registered nurse to supervise medication administration and to provide nursing services as needed.
  - (b) Nursing services shall supervise the administration of medication.
    1. The facility shall consider the clients' ability and training when supervising the administration of medication.
    2. The facility shall ensure that prescription medications are taken only by clients for whom they are prescribed and in accordance with the direction of a physician.
    3. The facility shall ensure that medications are stored in a locked container which ensures proper conditions of security, sanitation and prevents accessibility to any unauthorized person.
    4. The facility shall dispose of discontinued and/or outdated medications and containers with worn, illegible, or missing labels.
    5. All medication errors, drug reactions, or suspected over-medications shall be reported to the practitioner who prescribed the drug.
    6. Documentation of the current prescription of each medication taken by a client shall be maintained by the facility.

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

Rule 1200-8-18-.06, Basic Services, is amended by deleting paragraph (7) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 1200-8-18-.08, Life Safety, is amended by deleting paragraph (13) in its entirety and substituting instead the following language, so that as amended, the new paragraph (13) shall read:

- (13) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.

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

Rule 1200-8-19-.04, Administration, is amended by deleting part (2)(h)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(h)1 shall read:

- (2) (h) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-19-.08, Life Safety, is amended by deleting paragraph (16) in its entirety and substituting instead the following language, so that as amended, the new paragraph (16) shall read:

- (16) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.

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

Rule 1200-8-20-.04, Administration, is amended by deleting part (2)(g)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(g)1 shall read:

- (2) (g) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-20-.08, Life Safety, is amended by deleting paragraph (15) in its entirety and substituting instead the following language, so that as amended, the new paragraph (15) shall read:

- (15) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.

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

Rule 1200-8-21-.04, Administration, is amended by deleting subpart (1)(f)6(i) in its entirety and substituting instead the following language, so that as amended, the new subpart (1)(f)6(i) shall read:

- (1) (f) 6. (i) The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-206, 68-11-209, 68-11-210, and 68-11-222.

Rule 1200-8-22-.04, Administration, is amended by deleting part (2)(i)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(i)1 shall read:

- (2) (i) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-22-.06, Basic Services, is amended by deleting subparagraphs (3)(c) and (3)(d) in their entirety.

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

Rule 1200-8-22-.06, Basic Services, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Nursing Services.
  - (a) If the facility's services include medication administration, the facility shall have a written agreement with a registered nurse to supervise medication administration and to provide nursing services as needed.
  - (b) Nursing services shall supervise the administration of medication.
    - 1. The facility shall consider the clients' ability and training when supervising the administration of medication.
    - 2. The facility shall ensure that prescription medications are taken only by clients for whom they are prescribed and in accordance with the direction of a physician.
    - 3. The facility shall ensure that medications are stored in a locked container which ensures proper conditions of security, sanitation and prevents accessibility to any unauthorized person.
    - 4. The facility shall dispose of discontinued and/or outdated medications and containers with worn, illegible, or missing labels.
    - 5. All medication errors, drug reactions, or suspected over-medications shall be reported to the practitioner who prescribed the drug.
    - 6. Documentation of the current prescription of each medication taken by a client shall be maintained by the facility.

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

Rule 1200-8-22-.06, Basic Services, is amended by deleting paragraph (7) in its entirety and renumbering the remaining paragraphs accordingly.

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

Rule 1200-8-22-.06, Basic Services, is amended by deleting subparagraph (10)(b) in its entirety and renumbering the remaining subparagraphs accordingly.

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

Rule 1200-8-22-.07, Building Standards, is amended by deleting paragraphs (22) and (24) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (22) and (24) shall read:

- (22) A minimum of eighty (80) square feet of bedroom space shall be provided each resident. No bedroom shall have more than four (4) beds, except those existing facilities licensed prior to these regulations. Privacy screens or curtains shall be provided and used when requested by the resident.
- (24) Each toilet, lavatory, bath or shower shall serve no more than twelve (12) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.

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

Rule 1200-8-22-.08, Life Safety, is amended by deleting paragraph (16) in its entirety and substituting instead the following language, so that as amended, the new paragraph (16) shall read:

- (16) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Resident rooms shall be furnished with a UL approved trash container.

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

Rule 1200-8-23-.04, Administration, is amended by deleting part (2)(i)1 in its entirety and substituting instead the following language, so that as amended, the new part (2)(i)1 shall read:

- (2) (i) 1. The facility staff shall comply with applicable confidentiality laws and regulations;

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-23-.06, Basic Services, is amended by deleting subparagraph (3)(d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3)(d) shall read:

- (3) (d) The Medical Director shall be responsible for the medical care in the facility. The Medical Director shall:
  - 1. Ensure the delivery of emergency and medical care when the client's attending physician or his/her designated alternate is unavailable;
  - 2. Make periodic visits to the facility to evaluate the existing conditions and make recommendations for improvements;
  - 3. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

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

Rule 1200-8-23-.06, Basic Services, is amended by deleting subparagraph (10)(b) in its entirety and renumbering the remaining subparagraphs accordingly.

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

Rule 1200-8-23-.07, Building Standards, is amended by deleting paragraphs (22) and (24) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (22) and (24) shall read:

- (22) A minimum of eighty (80) square feet of bedroom space shall be provided each client. No bedroom shall have more than four (4) beds, except those existing facilities licensed prior to these regulations. Privacy screens or curtains shall be provided and used when requested by the resident.
- (24) Each toilet, lavatory, bath or shower shall serve no more than twelve (12) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.

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

### **REPEALS**

Rule 1200-8-18-.12, Procedures for the Withholding of Resuscitative Services, is repealed.

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

Rule 1200-8-19-.12, Procedures for the Withholding of Resuscitative Services, is repealed.

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

Rule 1200-8-20-.12, Procedures for the Withholding of Resuscitative Services, is repealed.

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

Rule 1200-8-21-.13, Procedures for the Withholding of Resuscitative Services, is repealed.

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

Rule 1200-8-22-.12, Procedures for the Withholding of Resuscitative Services, is repealed.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-23)

**THE 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 17<sup>th</sup> day of October, 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](http://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 1200-8-34**

**STANDARDS FOR HOME CARE ORGANIZATIONS PROVIDING PROFESSIONAL SUPPORT SERVICES**

**NEW RULES**

**TABLE OF CONTENTS**

1200-8-34-.01	Definitions	1200-8-34-.08	Reserved
1200-8-34-.02	Licensing Procedures	1200-8-34-.09	Reserved
1200-8-34-.03	Disciplinary Procedures	1200-8-34-.10	Infectious and Hazardous Waste
1200-8-34-.04	Administration	1200-8-34-.11	Records and Reports
1200-8-34-.05	Admissions, Discharges, and Transfers	1200-8-34-.12	Patient Rights
1200-8-34-.06	Basic Agency Functions	1200-8-34-.13	Procedures for the Withholding of Resuscitative Services
1200-8-34-.07	Reserved	1200-8-34-.14	Disaster Preparedness

Rule 1200-8-34-.01 Definitions—This rule lists thirty-five (35) words with their definitions.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, and 68-11-209.

Rule 1200-8-34-.02 Licensing Procedures—This rule requires all home care organizations providing professional support services 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, and 68-11-216.

Rule 1200-8-34-.03 Disciplinary Procedures—This rule explains the reasons for suspension or revocation of an agency’s license and factors used in determining sanctions. Also, the requirement of a plan of correction for deficiencies cited in the agency is explained and the procedure to follow if the agency 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, and 68-11-206 through 68-11-209.

Rule 1200-8-34-.04 Administration—This rule explains the following requirements: governing body, administrator responsibilities, policies and procedures, personnel files, employee ongoing educational program, personnel contracts, and civil rights.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-34-.05 Admissions, Discharges, and Transfers—This rule explains the requirements for admission, discharge, and transfer of patients with their agency.

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

Rule 1200-8-34-.06 Basic Agency Functions—This rule lists the requirements for the following: plan of care, drugs and treatments, skilled nursing services, therapy services, performance improvement, infection control, and medical records.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-11-304.

Rule 1200-8-34-.07 Reserved.

Rule 1200-8-34-.08 Reserved.

Rule 1200-8-34-.09 Reserved.

Rule 1200-8-34-.10 Infectious and Hazardous Waste—This rule requires each agency 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, 4-5-204, 68-11-202, and 68-11-209.

Rule 1200-8-34-.11 Records and Reports—This rule lists the required records and reports to retain at the agency for thirty-six (36) months. This rule requires the reporting of unusual incidents and explains the process for reporting and list examples of unusual incidents.



*Authority:* T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-207, 68-11-209, 68-11-210, and 68-11-213.

Rule 1200-8-34-.12 Patient Rights—This rule lists the rights of each patient.

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

Rule 1200-8-34-.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, 68-11-209, and 68-11-224.

Rule 1200-8-34-.14 Disaster Preparedness—This rule requires all agencies to establish and maintain communications with the local office of the Tennessee Emergency Management Agency and maintain a file of documents demonstrating communication and cooperation with them.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-22)

**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 15<sup>th</sup> Floor, Puett Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30p.m. CDT on October, 22, 2002.

Any individuals with disabilities who wish to participate in these proceedings (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 (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, Fran McKinney, at Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

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

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

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

**AMENDMENTS**

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

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

No of Persons in House- hold	1	2	3	4	5	6	7	8	9	10
165% of Poverty	\$1219	\$1642	\$2066	\$2489	\$2913	\$3336	\$3760	\$4183	\$4607	\$5031

Add \$424 for each additional person

**Authority:** TCA §§ 4-5-201 et seq.; 71-1-105; 71-3-157 and 71-3-158; 7 USC § 2014 and 7 USC § 2015; 21 USC § 862a; 7 CFR § 273.1; 7 CFR §§ 273.1(b)(2); 273.2(e); 273.5; 273.10 and 273.16.

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

**AMENDMENTS**

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

Table I

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	\$960	\$1294	\$1628	\$1961	\$2295	\$2629	\$2962	\$3296	\$3630	\$3964

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	\$4298	\$4632	\$4966	\$5300	\$5634	\$5968	\$6302	\$6636	\$6970	\$7304

For each additional member add \$334

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

Table II

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Net Income	\$739	\$995	\$1252	\$1509	\$1765	\$2022	\$2279	\$2535	\$2792	\$3049

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Maximum Net Income	\$3306	\$3563	\$3820	\$4077	\$4334	\$4591	\$4848	\$5105	\$5362	\$5619

For each additional member add \$257

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

Table III

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Coupon Allotment	\$139	\$256	\$366	\$465	\$553	\$663	\$733	\$838	\$943	\$1048

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Maximum Coupon Allotment	\$1153	\$1258	\$1363	\$1468	\$1573	\$1678	\$1783	\$1888	\$1993	\$2098

For each additional member add \$105

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

Table IV-A  
Standard Deduction

Household Size	1	2	3	4	5	6+
Standard Deduction	134	134	134	134	147	168

Table IV-B  
Food Stamp Deductions

Maximum Dependent Care for Child Less than 2 Years of Age	\$200
Maximum Dependent Care for Child Over Age 2 or Adult	\$175
Maximum Shelter Deduction for Non-Elderly/Disabled Households	\$367
Maximum Shelter Deduction for Elderly/ Disabled Households	No Maximum

*Authority: TCA §§ 4-5-201 et seq.; 71-1-105 and 71-3-158; 7 USC § 2014; 7 CFR § 273.9 and 7 CFR § 273.10.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of August, 2002. (08-42)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240  
DIVISION OF MEDICAL SERVICES**

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 15<sup>th</sup> Floor, Puett Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30 p.m. CDT on Wednesday, October 16, 2002.

Any individuals with disabilities who wish to participate in these proceedings (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 (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, Fran McKinney, at Citizens Plaza Building, 400 Deaderick Street, 3<sup>rd</sup> Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

For a copy of the proposed rule 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  
MEDICAL SERVICES DIVISION**

**CHAPTER 1240-3-3  
TECHNICAL AND FINANCIAL ELIGIBILITY  
REQUIREMENTS FOR MEDICAID**

**AMENDMENTS**

Rule 1240-3-3-.02 Technical Eligibility Factors, is amended by deleting Paragraph (5) in its entirety, and by substituting a new Paragraph (5), so that as amended Paragraph (5) shall read:

- (5) An individual must be a citizen of the United States, a lawfully admitted alien, or an alien permanently residing in the United States under the color of law, in accordance with Section 1903(v)(1), of the federal Social Security Act (42 USC § 1396b(v)(1)) unless applying for emergency medical services assistance as an illegal or undocumented alien or one lawfully admitted for residence who is not aged, blind, disabled, or under age 18.

Rule 1240-3-3-.02 Technical Eligibility Factors, is amended by deleting Paragraph (6) in its entirety, and by substituting a new Paragraph (6), so that as amended Paragraph (6) shall read:

- (6) An individual must be a resident of the State of Tennessee, as defined by federal regulations at 42 CFR § 435.403, the Acts of 2002, Chapter 880 § 14, and as further defined by rules promulgated by the bureau of TennCare.

Rule 1240-3-3-.02 Technical Eligibility Factors, is amended by inserting a new Paragraph (8) and renumbering the current Paragraphs (8), (9) and (10), as Paragraphs (9), (10) and (11), so that as amended Paragraphs (8) through (11) shall read:

- (8) The Department of Health shall promptly notify the bureau of TennCare, in a format to be specified by the bureau, of the death of any individual fifty-five (55) years of age or older. The notification shall include the decedent's name, date of birth and social security number.

Before any probate estate may be closed pursuant to Title 30 of the Tennessee Code Annotated, with respect to a decedent who at the time of death, was enrolled in the TennCare program, the personal representative of the estate shall file with the clerk of the court exercising probate jurisdiction a release from the bureau of TennCare evidencing payment of all medical assistance benefits, premiums, or other costs due from the estate under law, unless waived by the bureau of TennCare.

- (9) By accepting Medical Assistance, every recipient is deemed to assign to the State of Tennessee all third party insurance benefits or other third party sources of Medical support or benefits. Failure to cooperate in establishing the paternity of dependent children, or in securing or collecting third party medical insurance, benefits or support is grounds for denying or terminating Medical eligibility.
- (10) Institutionalized individuals in a medical institution (i.e., one organized to provide medical care, including nursing and convalescent care or Home and Community Based Services [HCBS]) must be continuously confined for 30 consecutive days prior to attaining Medicaid eligibility based on institutionalization. Medicaid coverage is retroactive to the date of admission when 30 consecutive days of institutionalization is met and may begin up to three (3) months prior to the month of application, if otherwise eligible.
- (11) As a condition of receiving medical assistance through the Medicaid program, each applicant or recipient must furnish his or her Social Security Number (or numbers, if he/she has more than one) during the application process. If the applicant/recipient has not been issued a number, he/she must assist the eligibility worker in making application for a number or provide verification that he/she has applied for a number and is awaiting its issuance.

**Authority:** *T.C.A. §§71-1-105(12) and 71-5-116; Acts of 2002, Chapter 880, §§ 9,14, and 17 (July 1, 2002); 42 USC § 1382c(a)(3)(4), 42 USC § 1396a(a)(10)(A)(ii)(I) and (V) and 42 USC § 1396b(v)(1); 42 CFR §§ 435.210, 435.300, 435.301, 435.403, 435.530, and 435.540.*

Rule 1240-3-3-.03 Resource Limitations for Categorically Needy, is amended by deleting Parts 1, 2 and 3 of Subparagraph (b) of Paragraph (7), and by inserting the following language, so that as amended Paragraph (7), Subparagraph (b), Parts 1, 2 and 3 shall read:

1. One-half of the total resources owned by both spouses not to be less than seventeen thousand, eight hundred, fifty-six dollars (\$17,856) nor greater than eighty-nine thousand, two hundred, eighty dollars (\$89,280);
2. The amount established after a fair hearing on the issue has been concluded; or
3. The amount transferred under a court order against the institutionalized spouse for the support of the community spouse.

In all actions for the transfer of income or resources from an institutionalized spouse for the support of the community spouse, the court shall apply the standards utilized to determine Medicaid eligibility in this state, regardless of any state laws relating to community property or the division of marital property.

**Authority:** T.C.A. §§ 4-5-201 et seq., 71-1-105(11) and (12), 71-5-106 and 71-5-111; Acts of 2002, Chapter 880 § 16 (July 1, 2002); 42 USCA §§ 1396d(p) and (s) and 1396r-5(b), (d), (f) and (g); 20 CFR §§ 416.1205(c) and 416.1212, 42 CFR §§ 435.700, 435.831 and 435.914(b) and (c).

Rule 1240-3-3-.04 Income Limitations for Categorically Needy, is amended by deleting Subpart (iv) of Part 4, Subparagraph (d), Paragraph (2) in its entirety, and by substituting the following language, so that as amended Paragraph (2) Subparagraph (d) Part 4 Subpart (iv) shall read:

- (iv) Dental services. In addition to the deductions from the total income available for the cost of long-term nursing home care authorized by rules and regulations of the Department of Human Services Division of Medical Services for an eligible individual confined to a long-term care facility, a deduction shall also be authorized and made from such total income available for the costs of routine and emergency dental services paid by the eligible individual. Deductions for such routine and emergency dental services, as defined by the bureau of TennCare, shall only be made for those purposes and in such amounts as determined annually by the bureau of TennCare's dental fee listing, whether such services are provided at a dental office, on-site at the long-term care facility, or through a mobile dental services provider that contracts with the long-term care facility.

**Authority:** T.C.A. §§ 4-5-201 et seq., 71-1-105(12), 71-5-106 and 71-5-111; Acts of 2002, Chapter 717 § 2 (2002); 42 USCA §§ 1302, 1396a(a)(10) and 1396a(l), (q) and (r), 1396d(p) and (s), 1396r-5(b) and (d)(3)(B) and (C); 42 CFR §§ 435.725, 435.726, 435.735, and 435.845.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of August, 2002. (08-57)

### **THE TENNESSEE MESSAGE LICENSURE BOARD - 0870**

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-18-211. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17<sup>th</sup> day of October, 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, 1<sup>st</sup> Floor, Cordell Hull Building, 425 5<sup>th</sup> 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**

#### **AMENDMENT**

Rule 0870-1-.12, Continuing Education, is amended by deleting subparagraphs (2) (a), (2) (c), (3) (a), and (3) (b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (a), (2) (c), (3) (a), and (3) (b) shall read:

- (2) (a) Beginning January 1, 2003, each licensed massage therapist must biennially (January 1 – December 31) attend and complete twenty-five (25) hours of massage therapy related continuing education in courses approved by the Board.
- (2) (c) Continuing education hours may be obtained by attendance at local, state, or national massage association meetings where continuing education courses are given that meet the Board definition of continuing education or any other course meeting the Board's definition of continuing education offered by a non-approved provider.
- (3) (a) Notwithstanding the provisions of subparagraph (2) (a), the due date for attendance and completion of the required continuing education hours is December 31st.
- (3) (b) Notwithstanding the provisions of subparagraph (2) (a), each massage therapist must, on a Board provided form, attest to timely attendance and completion of the required continuing education hours.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-26)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 21st day of October, 2002.

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



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

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

**SUBSTANCE OF PROPOSED RULES**

**AMENDMENTS**

Rule 1150-1-.01, Definitions, is amended by deleting subparagraph (28) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (28) (b) shall read:

- (28) (b) Other assistive personnel – Other trained or educated health care personnel not defined in paragraph (25) or subparagraph (28) (a) of this rule who perform specific designated tasks related to physical therapy under the supervision of a physical therapist. At the discretion of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, “other assistive personnel” or “other support personnel” may be identified by the title specific to their training or education.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-304, and 63-13-311.

Rule 1150-1-.02, Scope of Practice and Supervision, is amended by deleting subparagraph (2) (b) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (2) (d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) but not its subparagraphs and the new subparagraph (2) (d) shall read:

- (2) (b) Supervision of physical therapy assistive personnel – [See rule 1150-1-.01 (28)]
- (2) (d) Pursuant to rule 1150-1-.01 (37), physical therapists and physical therapist assistants shall provide direct on-site supervision of volunteers. Volunteers may not provide physical therapy to patients.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-304, and 63-13-311.

Rule 1150-1-.06, Fees, is amended by adding the following language as new subparagraphs (1) (f) and (2) (e) and renumbering the remaining subparagraphs (accordingly).

- (1) (f) Provisional License/Application fee – A nonrefundable fee to be paid by all applicants or licensees seeking a provisional license.
- (2) (e) Provisional License/Application Fee \$25.00 \$25.00

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-304, and 63-13-305, 63-13-307, 63-13-308, and 63-13-309.

Rule 1150-1-.10, Reserved, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (1), (2), (3), and (4), so that as amended, the new catchline and the new paragraphs (1), (2), (3), and (4) shall read:

**01150-1-.10 PROVISIONAL LICENSE.**

- (1) A provisional license may only be issued for:
  - (a) an internationally educated applicant who has complied with all the licensure qualifications of Rule 1151-1-.04 except the supervised clinical practice period required by subparagraph (3) (d); or
  - (b) a physical therapist or physical therapist assistant whose license has been inactive or lapsed for greater than five (5) years and whose license is presently unencumbered with respect to disciplinary action.
- (2) An applicant or a licensee seeking a provisional license shall pay the nonrefundable Provisional License/Application fee and, if applicable, the State Regulatory fee, the Reinstatement fee, and the Reciprocity fee as provided in Rule 1150—1—.06 when submitting the application.
- (3) Provisional licenses are valid for a period of one (1) year from the date of issuance. The provisional license may not be renewed.
- (4) A physical therapist with a provisional license must work under the direct on-site supervision of a physical therapist who possesses an active, unencumbered license to practice physical therapy in Tennessee and who has completed a minimum of one (1) year of licensed clinical experience.
- (5) A physical therapist assistant with a provisional license must work under the direct on-site supervision of a physical therapist or physical therapist assistant who possesses an active, unencumbered license to practice as a physical therapist or as a physical therapy assistant in Tennessee and who has completed a minimum of one (1) year of licensed clinical experience.

**Authority:** *T.C.A. §§ 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-304, and 63-13-305, 63-13-307, 63-13-308, and 63-13-309.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-45)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Occupational Therapy to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 21st day of October, 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**

**AMENDMENT**

Rule 1150-2-.06, Fees, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

(4) Fee Schedule:	OT	OTA
(a) Application	\$ 50.00	\$ 30.00
(b) Duplicate Certificate	\$ 25.00	\$ 25.00
(c) Endorsement/Verification	\$ 25.00	\$ 25.00
(d) Late Renewal Fee	\$ 15.00	\$ 15.00
(e) Limited Permit	\$ 25.00	\$ 25.00
(f) Renewal (biennial)	\$110.00	\$ 80.00
(g) Registration	\$ 75.00	\$ 60.00
(h) State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00
(i) Certificate Fee	\$ 75.00	\$ 60.00

**Authority:** T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-1-118, 63-13-104, 63-13-202, 63-13-203, 63-13-204, 63-13-205, and 63-13-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-24)

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

There will be a hearing before the Board of Osteopathic Examination to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-204, 63-7-123, 63-9-101, 63-9-112, 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 on the Ground Floor of the Cordell Hull Building located at 425 5<sup>th</sup> Avenue North, Nashville, Tennessee at 2:30 p.m. (CDT), on the 31st day of October, 2002.

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

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-1010, (615) 532-4397.

### **SUBSTANCE OF PROPOSED RULES**

#### **AMENDMENTS**

1050-2-.13 Scope of Practice, is amended by deleting the catchline of that rule and substituting instead the catchline "Specifically Regulated Areas and Aspects of Medical Practice," and is further amended by adding the following new paragraph (10), so that as amended the new catchline and the new paragraph (10) shall read:

#### **1050-2-.13 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:
- (a) the nurse practitioner or physician assistant have been properly trained for the type equipment being used; and
  - (b) written protocols have been mutually developed and agreed upon; and
  - (c) there is direct, on-site supervision by the physician.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-6-204, 63-7-123, 63-19-106, and 63-26-102.

Rule 1050-3-.07 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. Individuals with just a limited x-ray certification, without further credentials that this rule allows or the Board feels uniquely qualifies them to instruct students in a particular subject, may not under any circumstances 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, 63-9-101, and 63-9-112.

Rule 1050-3-.08 Examination for Certification, is amended by deleting part (2) (a) 3. and subparagraphs (2) (b) and (3) (a) in their entirety and substituting instead the following language, so that as amended, part (2) (a) 3. and the new subparagraphs (2) (b) and (3) (a) 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 1050-3-.07 (2) (c).
- (2) (b) Bone Densitometry – All applicants must provide proof of having successfully completed the A.R.R.T.'s Bone Densitometry Equipment Operators Examination.
- (3) (a) It is the applicant's responsibility to apply directly to the examination agency for admission to the examinations. The Board does not process applications for examination.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of August, 2002. (08-16)

## **BOARD OF RESPIRATORY CARE - 1330**

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 4<sup>th</sup> day of November, 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 1330-1-.01, Definitions, is amended by deleting paragraph (26) in its entirety and substituting instead the following language, and is further amended by adding the following as new, appropriately numbered paragraphs, , and is further amended by deleting paragraph (27) in its entirety and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraph (26) and the new, appropriately numbered paragraphs shall read:

- (26) Respiratory Care Practitioner – Shall have the same meaning as set forth in T.C.A. § 63-27-102 (7).
- ( ) C.A.A.H.E.P. – The Commission on Accreditation of Allied Health Education Programs.
- ( ) Co.A.R.C. – The Committee on Accreditation for Respiratory Care.

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

Rule 1330-1-.05, Qualifications and Procedures for Licensure, is amended by adding the following language as new subparagraph (1) (f) and renumbering the remaining subparagraphs accordingly, and is further amended by adding the following language as new parts (2) (a) 1., (2) (b) 1., and (2) (b) 2., and renumbering the remaining parts accordingly:

- (1) (f) An applicant shall attest on his application that he has attained at least eighteen (18) years of age.
- (2) (a) 1. The applicant shall submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations.
- (2) (b) 1. The applicant shall submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations.

- (2) (b) 2. The applicant shall have the school send directly to the Board office either certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, 63-27-105, and 63-27-115.

Rule 1330-1-.07, Application, Review, Approval, and Denial, 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) Completed applications may be approved by a Board member, by the Board consultant, or by the Board designee for a temporary authorization pursuant to T.C.A. §§ 63-1-142 and 63-27-116.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-142, 63-27-104, and 63-27-116.

Rule 1330-1-.09, Renewal of License, is amended by adding the following language as new paragraph (4) and renumbering the remaining paragraph accordingly:

- (4) After January 1, 2004, applicants currently licensed as registered respiratory therapists who have not obtained the credential "Registered Respiratory Therapist (RRT)" from the NBRC shall have their licenses renewed or reinstated as certified respiratory therapists.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-113.

Rule 1330-1-.11, Retirement and Reactivating of License, is amended by adding the following language as new paragraph (3) and renumbering the remaining paragraph accordingly:

- (3) After January 1, 2004, applicants currently licensed as registered respiratory therapists who have not obtained the credential "Registered Respiratory Therapist (RRT)" from the NBRC shall have their licenses reinstated as certified respiratory therapists.

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

Rule 1330-1-.14, Temporary License or Permit, 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) Filed with the Board office all the documentation required by rule 1330-1-.05, except proof of examination passage. A temporary license can be issued not to exceed a cumulative period of twelve (12) months.

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

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

- (1) The Board may take any disciplinary action described in paragraph (2) when a licensee has been found guilty of committing any act or offense provided in T.C.A. § 63-27-112 (a), or has violated any of the provisions of Tennessee Code Annotated, Title 63, Chapter 1 or Chapter 27 or the rules promulgated pursuant thereto.

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

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

- (1) (b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.
- (2) (b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.
- (3) A certified respiratory therapist may upgrade to registered respiratory therapist by doing the following:
  - (a) Complete and submit a notarized application, attach a current passport photo, and pay the application fee; and
  - (b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.
  - (c) Have the NBRC submit to the Board office proof of successful completion of the advanced level practitioner examination provided by the NBRC.

*Authority:* T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, 63-27-105, 63-27-115, and 63-27-116.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of August, 2002, (08-17)

### **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, 63-23-106, and 63-23-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16<sup>th</sup> day of October, 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, 1<sup>st</sup> Floor, Cordell Hull Bldng., 425 5<sup>th</sup> Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

## **SUBSTANCE OF PROPOSED RULES**

### **AMENDMENTS**

Rule 1365-1-.15 Disciplinary Actions, Civil Penalties, and Declaratory Orders, is amended by deleting paragraph (3) in its entirety and renumbering the remaining paragraph accordingly.

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

Rule 1365-1-.19 Board Meetings, Officers, Consultant and Records, is amended by deleting subparagraph (7) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (7) (b) shall read:

- (7) (b) Recommend whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 5th day of August, 2002. (08-02)

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

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 1st day of November, 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, 1<sup>st</sup> Floor, Cordell Hull Bldng., 425 5<sup>th</sup> Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

## SUBSTANCE OF PROPOSED RULES

### AMENDMENTS

Rule 0450-1-.06, Fees, is amended by adding the following language as new subparagraphs (1) (i) and (4) (e):

- (1) (i) Continuing Education Course Review Fee – A non-refundable fee to be paid by continuing education course providers each time an application for course approval(s) is made. The course(s) may be offered multiple times during the twelve (12) month period after which a new application and new fees are required.
- (4) (e) Continuing Education Course Review Fee
  - 1. Ten (10) or less clock hours \$100.00
  - 2. Eleven (11) or more clock hours \$250.00

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

Rule 0450-1-.12, Continuing Education, is amended by deleting paragraph (5) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (a) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) but not its subparagraphs and the new subparagraph (5) (a) shall read:

- (5) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Board. Unless otherwise provided, all courses shall be offered within Tennessee.
  - (a) Course approval procedures
    - 1. Pre-approved course providers - Continuing education courses which pertain to the practice of counseling shall be considered approved if provided or sanctioned by the following entities:
      - (i) American Association for Marriage and Family Therapy
      - (ii) American Association of Pastoral Counselors
      - (iii) American Association of Sex Educators, Counselors, and Therapists
      - (iv) American Counseling Association
      - (v) American Psychiatric Association
      - (vi) American Psychological Association
      - (vii) National Association of Social Workers

- (viii) Any state professional association affiliated with the national associations listed in subparts (i) through (vii).
  - (ix) National Board for Certified Counselors
  - (x) Nationally or regionally accredited institutions of higher education, including graduate courses and continuing education courses
  - (xi) Any state regulatory agency for professional counseling in the United States
1. Course approval procedure for other course providers
    - (i) Unless pre-approved as provided in part (5) (a) 1., the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, fees as required in Rule .06 and documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Board:
      - (I) course description or outline.
      - (II) names of all lecturers.
      - (III) brief resume of all lecturers.
      - (IV) number of hours of educational credit requested.
      - (V) date of course.
      - (VI) copies of materials to be utilized in the course.
      - (VII) how verification of attendance is to be documented.
    - (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of counselors will be recognized for continuing education credit by the Board if
      - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
      - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
    - (iii) Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a professional counseling regulatory agency or association from a state that borders Tennessee; and
      - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
      - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
  3. Course approval procedure for individual licensees and certificate holders.

- (i) Any licensee or certificate holder may seek approval to receive credit for successfully completing continuing education courses by delivering to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, everything required in items (5) (a) 2. (i) (I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Board:
- (ii) To retain course approval, the licensee or certificate holder must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.

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

Rule 0450-1-.13, Professional Ethics, is amended by adding the following language as new paragraphs (5) and (6):

- (5) In addition to the other requirements of this rule, all licensees and certificate holders who practice counseling electronically and/or across state lines shall comply with the Ethical Standards for Internet Online Counseling adopted by the American Counseling Association, [www.counseling.org](http://www.counseling.org), except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the standards for the ethical practice of internet counseling conflict with state law or rules, the state law or rules govern the matter. Violation of the standards for the ethical practice of web counseling or state law or rules may subject a licensee or certificate holder to disciplinary action.
- (6) Each applicant, certificate holder, or licensee is responsible for being familiar with and following the principles for the online provision of mental health services and the ethical standards for practice of internet counseling.

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

Rule 0450-2-.06, Fees, is amended by adding the following language as new subparagraphs (1) (i) and (4) (c):

- (1) (i) Continuing Education Course Review Fee – A non-refundable fee to be paid by continuing education course providers each time an application for course approval(s) is made. The course(s) may be offered multiple times during the twelve (12) month period after which a new application and new fees are required.
- (4) (c) Continuing Education Course Review Fee
 

1. Ten (10) or less clock hours	\$100.00
2. Eleven (11) or more clock hours	\$250.00

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

Rule 0450-2-.12, Continuing Education, is amended by deleting paragraph (5) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (a) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) but not its subparagraphs and the new subparagraph (5) (a) shall read:

- (5) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Board. Unless otherwise provided, all courses shall be offered within Tennessee.

(a) Course approval procedures

1. Pre-approved course providers - Continuing education courses which pertain to the practice of marital and family therapy shall be considered approved if provided or sanctioned by the following entities:
  - (i) American Association for Marriage and Family Therapy
  - (ii) American Association of Pastoral Counselors
  - (iii) American Association of Sex Educators, Counselors, and Therapists
  - (iv) American Counseling Association
  - (v) American Psychiatric Association
  - (vi) American Psychological Association
  - (vii) National Association of Social Workers
  - (viii) Any state professional association affiliated with the national associations listed in subparts (i) through (vii).
  - (ix) National Board for Certified Counselors
  - (x) Nationally or regionally accredited institutions of higher education, including graduate courses and continuing education courses
  - (xi) Any state regulatory agency for marital and family therapy in the United States
2. Course approval procedure for other course providers
  - (i) Unless pre-approved as provided in part (5) (a) 1., the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, fees as required in Rule .06 and documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Board:
    - (I) course description or outline.
    - (II) names of all lecturers.
    - (III) brief resume of all lecturers.
    - (IV) number of hours of educational credit requested.
    - (V) date of course.
    - (VI) copies of materials to be utilized in the course.
    - (VII) how verification of attendance is to be documented.

- (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of marital and family therapists will be recognized for continuing education credit by the Board if
    - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
    - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
  - (iii) Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a marital and family therapy regulatory agency or association from a state that borders Tennessee; and
    - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
    - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
3. Course approval procedure for individual licensees and certificate holders.
- (i) Any licensee or certificate holder may seek approval to receive credit for successfully completing continuing education courses by delivering to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, everything required in items (5) (a) 2. (i) (I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Board:
  - (ii) To retain course approval, the licensee or certificate holder must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.

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

Rule 0450-2-.13, Professional Ethics, is amended by adding the following language as new paragraphs (4) and (5):

- (4) In addition to the other requirements of this rule, all licensees and certificate holders who practice marital and family therapy electronically and/or across state lines shall comply with the Online Ethical Advisory Opinions adopted by the AAMFT, [www.aamft.org](http://www.aamft.org), except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the standards for the ethical practice of marital and family therapy over the Internet conflict with state law or rules, the state law or rules govern the matter. Violation of the standards for the ethical practice of marital and family therapy over the Internet or state law or rules may subject a licensee or certificate holder to disciplinary action.
- (5) Each applicant, certificate holder, or licensee is responsible for being familiar with and following the ethical standards for practice of marital and family therapy over the Internet.

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

Rule 0450-3-.06, Fees, is amended by adding the following language as new subparagraph (1) (g), and is further amended by renumbering (4) 1. through (4) 7. as subparagraphs (4) (a) through (4) (g), and is further amended by adding the following language as subparagraph (4) (h):

- (1) (g) Continuing Education Course Review Fee – A non-refundable fee to be paid by continuing education course providers each time an application for course approval(s) is made. The course(s) may be offered multiple times during the twelve (12) month period after which a new application and new fees are required.
- (4) (h) Continuing Education Course Review Fee
  - 1. Ten (10) or less clock hours \$100.00
  - 2. Eleven (11) or more clock hours \$250.00

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

Rule 0450-3-.12, Continuing Education, is amended by deleting paragraph (5) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (a) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) but not its subparagraphs and the new subparagraph (5) (a) shall read:

- (5) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Board. Unless otherwise provided, all courses shall be offered within Tennessee.
  - (a) Course approval procedures
    - 1. Pre-approved course providers - Continuing education courses which pertain to the practice of clinical pastoral therapy shall be considered approved if provided or sanctioned by the following entities:
      - (i) American Association for Marriage and Family Therapy
      - (ii) American Association of Pastoral Counselors
      - (iii) American Association of Sex Educators, Counselors, and Therapists
      - (iv) American Counseling Association
      - (v) American Psychiatric Association
      - (vi) American Psychological Association
      - (vii) National Association of Social Workers
      - (viii) Any state professional association affiliated with the national associations listed in subparts (i) through (vii).
      - (ix) National Board for Certified Counselors
      - (x) Nationally or regionally accredited institutions of higher education, including graduate courses and continuing education courses
      - (xi) Any state regulatory agency for clinical pastoral therapy in the United States

2. Course approval procedure for other course providers
  - (i) Unless pre-approved as provided in part (5) (a) 1., the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, fees as required in Rule .06 and documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Board:
    - (I) course description or outline.
    - (II) names of all lecturers.
    - (III) brief resume of all lecturers.
    - (IV) number of hours of educational credit requested.
    - (V) date of course.
    - (VI) copies of materials to be utilized in the course.
    - (VII) how verification of attendance is to be documented.
  - (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of clinical pastoral therapists will be recognized for continuing education credit by the Board if
    - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
    - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
  - (iii) Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a clinical pastoral therapy regulatory agency or association from a state that borders Tennessee; and
    - (I) the course provider has complied with the provisions of subpart (5) (a) 2. (i); or
    - (II) the course provider is exempt from needing prior approval as provided in part (5) (a) 1.
3. Course approval procedure for individual licensees and certificate holders.
  - (i) Any licensee or certificate holder may seek approval to receive credit for successfully completing continuing education courses by delivering to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, everything required in items (5) (a) 2. (i) (I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Board:
  - (ii) To retain course approval, the licensee or certificate holder must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.

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



The notice of rulemaking set out herein was properly filed in the Department of State on the 5th day of August, 2002. (08-01)

## **BOARD OF VETERINARY MEDICAL EXAMINERS - 1730**

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules and repeal of a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-12-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 5<sup>th</sup> Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 22nd day of November, 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, 1<sup>st</sup> Floor, Cordell Hull Building, 425 5<sup>th</sup> 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 1730-1-.02, Scope of Practice, is amended by adding the following language as new paragraph (4):

- (4) It is within the veterinarian's discretion to release or not to release a prescription to a client.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, and 63-12-124.

Rule 1730-1-.04, Qualifications for Licensure, is amended by deleting subparagraph (3) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3) (a) shall read:

- (3) (a) Meet the requirements set by the AVMA (ECFVG certification or certification deemed by the Board to be equivalent to ECFVG); and

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-114, and 63-12-115.

Rule 1730-1-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (c) and (3) (a) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c) and (3) (a) shall read:

- (1) (c) An applicant shall pay, at the time of application, the non-refundable application fee and the State Regulatory fee as provided in Rule 1730-1-.06.
- (3) (a) Meet the requirements set by the AVMA (ECFVG certification or certification deemed by the Board to be equivalent to ECFVG); and

**Authority:** T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-113, 63-12-114, and 63-12-115.

Rule 1730-1-.06, Fees, is amended by deleting subparagraphs (1) (c) and (3) (c) and renumbering the remaining subparagraphs accordingly.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-113, 63-12-114, and 63-12-115.

Rule 1730-1-.08, Examinations, is amended by deleting paragraph (7) in its entirety and substituting instead the following language, and is further amended by deleting paragraphs (8), (9), (10), and (11) in their entirety, so that as amended, the new paragraph (7) shall read:

- (7) All examination applications and fees for the North American Veterinary Licensing Examination shall be sent directly to the National Board of Veterinary Medical Examiners.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, 63-12-112, 63-12-113, 63-12-114, and 63-12-115.

Rule 1730-1-.13, Unprofessional Conduct, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Practicing veterinary medicine in this state on an expired, retired, suspended, or revoked license or beyond the period of a valid temporary license.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, 63-12-112, 63-12-113, 63-12-119, and 63-12-124.

Rule 1730-1-.18, Mandatory Release of Client's Records, is amended by adding the following language as new paragraphs (5) and (6):

- (5) Radiographs are considered to be a part of the client's records.
- (6) A prescription is not considered to be a part of the client's records.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, and 63-12-124.

Rule 1730-1-.22, Recordkeeping, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (5) and (6), so that as amended the new paragraphs (4), (5), and (6) shall read:

- (4) For the purpose of these rules, the record shall be “owned” by the facility.
- (5) Radiographs are considered to be a part of the client’s records.
- (6) A prescription is not considered to be a part of the client’s records.

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

Rule 1730-2-.03, Veterinary Facility Inspections to Obtain a Premises Permit, is amended by adding the following language as new subparagraphs (3) (h) and (3) (i):

- (3) (h) Cages, exercise areas, pens, and stalls are to be kept in a clean and orderly condition, in a well-lighted area, and in good repair to prevent injury to animals and to promote physical comfort.
- (3) (i) Small animals housed outside must have adequate shelter and bedding if the temperature drops below fifty degrees (50°) Fahrenheit and sufficient cooling or shade if the temperature rises above eighty-five degrees (85°) Fahrenheit.

**Authority:** *T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-129, and 63-12-139.*

Rule 1730-2-.04, Recordkeeping, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, and is further amended adding the following language as new paragraphs (4) and (5) :

- (4) Radiographs are considered to be a part of the client’s records.
- (5) A prescription is not considered to be a part of the client’s records.

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

Rule 1730-2-.05, Prescribing, Dispensing, or Otherwise Distributing Pharmaceuticals, is amended by adding the following language as new paragraph (2):

- (2) It is within the veterinarian’s discretion to release or not to release a prescription to a client.

**Authority:** *T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, and 63-12-124.*

Rule 1730-2-.07, Mobile Facility / Satellite Veterinary Clinics / Emergency Hospitals / House Calls, 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) If emergency or any other veterinary medical services are not available, the veterinarians must have a written agreement with a clinic or hospital for the provision of emergency services or any other non-provided services. Additionally, the name and address of the clinical or hospital offering emergency services shall be posted in a conspicuous place.

- (4) If hospitalization, laboratory services, or radiology are not available, veterinarians must have a written agreement with a clinic or hospital for the provision of these services.

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

Rule 1730-2-.10, Radiology, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, and is further amended by adding the following language as paragraph (3), so that as amended, the new paragraphs (2) and (3) shall read:

- (2) Radiology equipment and use shall be in accordance with federal and state statutes and regulations.
- (3) All radiographic devices must meet the requirements of the Division of Radiological Health of the Department of Environment and Conservation.

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

Rule 1730-2-.13, Unprofessional Conduct, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Practicing veterinary medicine in this state on an expired, retired, suspended, or revoked license or beyond the period of a valid temporary license.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, 63-12-112, 63-12-113, 63-12-119, 63-12-124, 63-12-137, and 63-12-139.

Rule 1730-3-.13, Unprofessional Conduct, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Practicing as a veterinary medical technician in this state on an expired, retired, suspended, or revoked license.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, 63-12-119, 63-12-124, and 63-12-135.

Rule 1730-5-.11, Unprofessional Conduct, 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) Practicing as a C.A.E.T. in this state on an expired, retired, suspended, or revoked certificate.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-12-103, 63-12-106, 63-12-119, 63-12-124, and 63-12-141.

**REPEAL**

Rule 1730-2-.11, Animal Quarters, is repealed.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of August, 2002. (08-25)

**TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Ballroom A of the Clarion Hotel, located at 407 Chestnut Street, Chattanooga, Tennessee, commencing at 9:00 A.M., local time, on the 31st day of October, 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

**SUBSTANCE OF PROPOSED RULES****CHAPTER 1660-1-18  
RULES AND REGULATIONS OF LIVE WILDLIFE****AMENDMENT**

Paragraph (4) of Rule 1660-1-18-.03 Classes of Wildlife is amended by deleting the language in the paragraph in its entirety and substituting the following language to read as follows:

- (4) The following species or groups of wildlife are added to the group of animals designated by legislation as Class V:

- (a) Nandaya or Black-Hooded parakeets (*Nandayus nenday*)
- (b) Quaker or Monk parakeets (*Myiopsitta monachus*)
- (c) All non-native freshwater aquatic life except the following:
  - 1. Goldfish
  - 2. Triploid grass carp
  - 3. Salmon – all species
  - 4. Species approved for fish farming
  - 5. Fish, crustaceans, and mollusks held in aquaria. This exception does not apply to the following species which shall be regarded as Class V:
    - a. Zebra mussels (*Dreissena polymorpha*)
    - b. Black Carp (*Mylopharyngodon piceus*)
    - c. Blueback Herring (*Alosa aestivalis*)
    - d. Ruffe (*Gymnocephalus cernua*)
    - e. Bighead carp (*Aristichthys nobilis*)
    - f. Silver carp (*Hypophthalmichthys molitrix*)
    - g. Snakeheads (all members of the Family *Channidae*)
    - h. New Zealand mud snail (*Potamopyrgus antipodarum*)
    - i. Round goby (*Neogobius melanostomus*)
    - j. Rudd (*Scardinius erythrophthalmus*)
    - k. Swamp eels (all members of the Family *Synbranchidae*)

**Authority:** T.C.A. §70-4-401

**CHAPTER 1660-1-5  
RULES AND REGULATIONS FOR FISHING  
AMENDMENT**

Rule 1660-1-5-.03 is amended by deleting it in its entirety and by substituting instead the following paragraphs:

- (1) The lakes governed by this rule are Browns Creek Lake, Carroll Lake, Coy Gaither-Bedford Lake, Davy Crockett Lake, Garrett Lake, Gibson County Lake, Glenn Springs Lake, Graham Lake, Herb Parsons Lake, Laurel Hill Lake, Maples Creek Lake, Marrowbone Lake, Reelfoot-Indian Creek Watershed Lakes (Obion County), V.F.W. Lake, Whiteville Lake, and Williamsport Lake.
- (2) A Daily or Annual Fishing Permit is required on all lakes listed above except Garrett Lake, Reelfoot-Indian Creek Watershed Lakes, and Whiteville Lake. These permits (not transferable) are required by all except those exempt under provisions of paragraph 3.
- (3) Residents exempt from the Daily Lake Permit are: those entitled to a free fishing license; those 65 years of age and older; children under 16 years of age; and holders of Sportman's License.
- (4) Unattended private boats may not be left on the lakes except those tied to permitted boat docks on Gibson County Lake.
- (5) Boats may not exceed no wake-speed, except as noted in No. (9). Boats used for any activity other than fishing is prohibited, except as noted in Nos. (6) and (7). Use of motors, other than electric trolling motors, to operate boats on V.F.W. Lake, Coy Gaither-Bedford Lake, Williamsport Lakes, or Marrowbone Lake is prohibited.
- (6) Houseboats, sailboats, cruisers, skiing, and swimming are prohibited except skiing and swimming are permitted in the Gibson County Lake recreational zone. Swimming permitted on Reelfoot-Indian Creek Watershed Lakes.
- (7) Hunting is permitted during the regular hunting season on the following lakes and adjacent state lands, except on areas posted as safety zones: Garrett Lake, VFW Lake, Whiteville Lake, Coy Gaither Bedford Lake, Laurel Hill Lake, Carroll Lake (no big game hunting allowed on Carroll Lake and State owned land adjacent thereto), and Reelfoot-Indian Creek Watershed Lakes. Trapping is allowed on Reelfoot-Indian Creek Watershed Lakes as set out in statewide regulations. Waterfowl hunting is permitted from temporary or natural blinds only on Garrett Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes. Blinds and decoys must be removed daily from Garrett Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes. Firearms are prohibited on all areas except those open to hunting. Boats may be used for waterfowl hunting on Garrett Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes.
- (8) On those lakes where camping is permitted it is restricted to those areas designated by the Lake Manager or concessionaire in charge, and requires their permission.
- (9) On Laurel Hill Lake and Gibson County Lake, the "no wake" speed is restricted to that area of the lake delineated by "no wake" buoys.
- (10) All persons utilizing Agency managed lakes and property must supply license and permit information, present their catch for inspection, and check in and out if requested by Agency personnel or agents.
- (11) No person shall be under the influence or in the possession of any intoxicating beverages or drugs while on these areas, nor shall any person deface state property, block access areas, cut trees, bushes, and shrubs or litter the area.
- (12) On Reelfoot-Indian Creek Watershed Lakes, trotlines, limblines and commercial fishing are prohibited. Jugfishing is limited to 10 jugs per boat.
- (13) No jugfishing, trotlines, or limblines allowed on Gibson County Lake.

- (14) For safety reasons, the TWRA regional manager or his designee, has the authority to close any TWRA lake to motor boats.

**Authority:** *T.C.A. §§69-10-209, 70-1-206 and 70-4-107.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of August, 2002. (08-58)



## **WILDLIFE PROCLAMATIONS**

### **TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**

#### **PROCLAMATION 02-12 AMENDING PROCLAMATION 02-8 WILDLIFE MANAGEMENT AREAS HUNTING SEASONS, LIMITS AND MISCELLANEOUS REGULATIONS**

Pursuant to the authority granted by Tennessee Code Annotated Sections 70-4-107 and 70-5-108, the Tennessee Wildlife Resources Commission hereby proclaims the following amendments to Proclamation 02-8, Wildlife Management Areas, Hunting Seasons, Limits and Miscellaneous Regulations:

Amend Section II. Wildlife Management Areas and Refuges – Season and Bag Limits, South Cherokee – Tellico Unit, by deleting the wording for the November 18-19 Bear Hunt and replacing it with the following wording to include boar as being open on this hunt:

Bear/Boar (Gun-Archery)(Dogs Permitted)	One 2-day hunt. Nov. 18-19. One bear, either sex; one boar, either sex. Hunting confined to that area outside the Tellico Bear Reserve and the party dog area.
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Amend Section II. Wildlife Management Areas and Refuges – Season and Bag Limits, Chuck Swan, by deleting the wording for the raccoon hunt and replacing it with the following wording:

Raccoon	Six 1-day hunts. Nov. 5, 7, 9, 11, 13, 22. Hunters must check out by 2:00 A.M. All raccoons must be checked out.
---------	--

Amend Section II. Wildlife Management Areas and Refuges – Season and Bag Limits, Flintville Hatchery, by inserting the word “dove” in the list of species open for hunting same as statewide seasons.

Proclamation No. 02-12 received and recorded this 5th day of August, 2002. (08-04)

**TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660****PROCLAMATION 02-11  
AMENDING PROCLAMATION 99-6  
TAKING, POSSESSING, AND SELLING OF MUSSELS**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-2-205, 70-4-107, 70-4-119, and 70-8-107 thereof, the Tennessee Wildlife Resources Commission proclaims the following amendment to Section III. SPECIES, SEASONS AND SIZE LIMITS of Proclamation 99-16, Taking, Possessing, and Selling of Mussels.

**SECTION III. SPECIES, SEASONS AND SIZE LIMITS**

Delete subsection B. in its entirety, and replace with:

- B. The season for legal mussels is open year-round between sunrise and sunset of each day, except that Kentucky Reservoir is closed to the taking of mussels by diving on the following observed National Holidays: weekend of Memorial day, weekend of Labor day; and the weekend surrounding the 4<sup>th</sup> of July when it falls on a Friday, Saturday, Sunday or Monday.

Proclamation 02-11 received and recorded this 5th day of August, 2002. (08-03)



### **CERTIFICATE OF APPROVAL**

*As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning August 1, 2002 and ending August 31, 2002..*

RILEY C. DARNELL  
*Secretary of State*

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