

TAAAR



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RILEY C. DARNELL
Secretary of State

Division of Publications
8th Floor, Snodgrass Tower
312 8th Avenue North
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PREFACE

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

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

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

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

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

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

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

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ANNOUNCEMENTS

THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE - 0780 INSURANCE DIVISION

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING AND NOTICE TO POTENTIALLY INTERESTED PERSONS

1. Petitioner's Name: H & R Block Eastern Tax Services, Inc.
 4410 Main Street
 Kansas City, Missouri 64111

 Docket Number: 12.00-040591J
2. Petitioner's Attorney: Douglas S. Laird,
 Polsinelli Shalton & Welte, P.C.

 Address: 700 W. 47th Street, Suite 1000
 Kansas City, MO. 64112

 Telephone Number: 816 753 1000
3. Organization, if any, that the Petitioner represents:

 H & R Block Eastern Tax Services, Inc.
4. Provide a statement of the facts which led to the filing of this petition.
 - a. The Petitioner, H & R Block Eastern Tax Services, Inc. ("Block") is engaged in the business of income tax preparation services to persons located in Tennessee.
 - b. Block offers a program to certain of its customers entitled the "Piece of Mind Program" ("Program"). The Program provides that if Block has made an error in the preparation of a customer's taxes, Block will provide free tax audit assistance, and will pay for interest and penalties subsequently found to be owed by a customer for the error.
 - c. In addition, for a fee, a customer may purchase an enhanced version of the Program ("Enhanced Program") that provides that Block will pay up to four thousand dollars (\$4,000) that a customer may owe in taxes that is due to an error in the preparation of the taxes by Block. The Enhanced Program remains in force for three (3) years from the filing deadline for the returns.

- a. See above.

A hearing has been scheduled for this matter for May 22, 2003 at 9:00 a.m. before an Administrative Judge for the Administrative Procedures Division, Office of the Secretary of State, sitting for the Commissioner of Commerce and Insurance, in Room 212 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243.

If you have any questions, you may contact the Petitioner, H & R Block Eastern Tax Services, Inc., at the address and telephone number at the beginning of this notice.

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 21st day of March, 2003. (03-08)

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 8.25%.

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

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

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of May 2003 is 8.97 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 calculated rate is 4.97 per cent.

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

GOVERNMENT OPERATIONS COMMITTEES**ANNOUNCEMENT OF PUBLIC HEARINGS**

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of March 2003. 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 NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-05	Mar 17, 2003	0460 Dentistry	Proposed Rule	Amendment	0460-1-02 Fees	Nick Aemisegger OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-1010 615-741-1611	July 29, 2003
03-06	Mar 18, 2003	0540 Electrolysis Examiners	Rulemaking Hearing Rules	Amendments	Chapter 0540-1 General Rules Governing Electrology, Electrologists, and Electrology Instructors 0540-1-06 Fees Chapter 0540-3 General Rules Governing Schools of Electrology 0540-3-06 Fees	Carrie Archie OGC 26th Fl TN Twr 312 8th Ave. N Nashville, TN 37247-0120 (615) 741-1611	June 1, 2003
03-07	Mar 18, 2003	0260 Chiropractic Examiners	Rulemaking Hearing Rules		Chapter 0260-2 General Rules Governing Chiropractic Examiners 0260-2-06 Fees Chapter 0260-3 General Rules Governing Chiropractic X-Ray Technologists 0260-3-06 Fees Chapter 0260-5 General Rules Governing Chiropractic Therapy Assistants 0260-5-06 Fees	Robert J. Kraemer OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611	June 1, 2003
03-09	Mar 28, 2003	1200 Health Office of the Commissioner	Proposed Rule	Amendments	Chapter 1200-24-4 Reimbursement of Health Care Provider Costs 1200-24-4-.02 Definitions 1200-24-4-.03 General Provisions	Richard F. Russell OGC 26th Fl TN Tower, 312 8th Ave N Nashville TN 37247-0120 (615) 741-1611	July 29, 2003
03-10	Mar 26, 2003	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendment	Chapter 1200-3-4 Open Burning 1200-3-4-.04 Exceptions To Prohibition	Mr. Jeff Cales Air Pollution Control Cookeville EAC 1221 South Willow Ave. Cookeville, TN 38506 931-432-7621	June 6, 2003

ANNOUNCEMENTS

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SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-12	Mar 27, 2003	1200 Health Board of Respiratory Care	Rulemaking Hearing Rules	Amendments	Chapter 1330-1 General Rules Governing Respiratory Care Practitioners 1330-1-.01 Definitions 1330-1-.05 Qualifications and Procedures for Licensure 1330-1-.06 Fees 1330-1-.07 Application, Review, Approval, and Denial 1330-1-.08 Examinations 1330-1-.09 Renewal of License 1330-1-.10 Supervision 1330-1-.11 Retirement and Reactivating of License 1330-1-.12 Continuing Education 1330-1-.13 Professional Ethics 1330-1-.14 Temporary License or Permit 1330-1-.15 Disciplinary Grounds, Actions, and Civil Penalties 1330-1-.17 Change of Name and/or Address 1330-1-.20 Advertising 1330-1-.21 Upgrading Classification Requirements	Nicole Armstrong OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611	June 10, 2003
03-20	Mar 31, 2003	0520 Education	Proposed Rule	Amendments	Chapter 0520-1-3 Minimum Requirements for the Approval of Public Schools 0520-1-3-.05 State Curriculum, Requirement D	Karen Weeks 9th Fl Johnson Twr 710 James Robertson Pkwy Nashville TN 37243-1050 615-532-3528	July 29, 2003
03-21	Mar 31, 2003	0520 Education	Proposed Rule	Amendments	Chapter 0520-14-1 Charter Schools 0520-14-1-.01 Approval of a Charter School	Karen Weeks 9th Fl Johnson Twr 710 James Robertson Pkwy Nashville TN 37243-1050 615-532-3528	July 29, 2003

Health Services and Development Agency - 0720

Notice of Beginning of Review Cycle

Applications will be heard at the May 28, 2003 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 March 1, 2003. The review cycle includes a 60-day period of review by the Tennessee Department of Health or the Department of Mental Health and Developmental Disabilities. 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 Developmental Disabilities. 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
Medical Center of Manchester 481 Interstate Drive Manchester (Coffee Co.), TN 37355 Bobby Couch, CEO – (931)—728-6354 CN0210-095	The initiation of mobile Magnetic Resonance Imaging "MRI" services one (1) day per week. The mobile MRI will be located outside the Emergency Room entrance to Medical Center of Manchester. \$ 258,000.00
Advanced Orthopaedics, Inc. 2320 Thornton Taylor Parkway Fayetteville (Lincoln Co.), TN 37334 Mark Monks – (931)—433-2572 CN0301-003	The initiation of in-office magnetic imaging (MRI) services. \$ 624,043.80

NAME AND ADDRESS

DESCRIPTION

Coffee Medical Center
1001 McArthur Street
P.O. Box 1079
Manchester (Coffee Co.), TN 37349-1079
Bill Patterson – (931)—728-3486
CN0302-006

The construction of a 30,000 gross square foot addition adjoining Coffee Medical Center in Manchester (Coffee County), Tennessee. If approved, the addition will provide replacement facilities for Admitting, Emergency Room, Surgery, Imaging and one patient care unit of 26 beds. The hospital's licensed bed complement will remain unchanged at 54 general hospital beds, including 10 swing beds, and 72 dually certified Level II (skilled) nursing facility beds for a total of 126 beds. There will be no major moveable equipment involved and no existing service will be discontinued.
\$ 7,861,585.00

Knollwood Manor
405 Times Avenue
Lafayette (Macon Co.), TN 37083
Linda Austin – (615)—666-3170
CN0302-007

The conversion of six (6) existing assisted care living beds to six (6) skilled nursing beds in existing space at Knollwood Manor, 405 Times Avenue in Lafayette, Tennessee. The current bed complement of Knollwood Manor is forty-three (43) nursing home and six (6) assisted living beds. If approved, Knollwood Manor will have a bed complement of forty-nine (49) nursing home and zero (0) assisted living beds.
NOTE: These beds will be considered under the 2002/2003 125-bed pool.
\$ 4,000.00

The King's Daughters and Sons Home
3568 Appling Road
Bartlett (Shelby Co.), TN 38133
Ronald B. Arrison – (901)—272-7405
CN0302-008

The relocation and replacement of a one hundred eight (108) bed nursing home. The existing site is 1467 E. McLemore Avenue in Memphis, Tennessee and the new site is 3568 Appling Road.
NOTE: Bed pool not applicable.
\$ 8,353,705.00

Bradley County Memorial Hospital
2305 Chambliss Avenue
P.O. Box 3060
Cleveland (Bradley Col), TN 37320
James P. Alwell, CFO – (423)—559-6103
CN0302-009

The establishment of an eight (8) bed inpatient psychiatric unit and the initiation of geriatric inpatient psychiatric services. Approximately 4,000 square feet of unused space located on the second floor of Bradley Memorial Hospital will be renovated to accommodate the geriatric psychiatric unit. No major medical equipment will be purchased and no new licensed beds are requested. If approved, the bed complement of the facility will be 207 medical/surgical, 18 obstetrical, 10 ICU/CCU, 8 pediatric and 8 geriatric psychiatric for a total general/pediatric licensed hospital bed complement of 251 beds. There will be no change in the total number of licensed beds.
\$ 165,000.00

NAME AND ADDRESS	DESCRIPTION
Centennial Medical Center at Ashland City 313 North Main Street Ashland City (Cheatham Co.), TN 37015 John Wellborn – (615)—665-2022 CN0302-010	The initiation of mobile magnetic imaging services. The mobile service will be located on an existing mobile services pad one day per week at Centennial Medical Center at Ashland City. \$ 252,000.00
Hillside Hospital 1265 East College Street Pulaski (Giles Co.), TN 38478 John Wellborn – (615)—665-2022 CN0302-011	The initiation of mobile extracorporeal shockwave lithotripsy services one (1) day per week. \$ 133,500.00
Wellmont Bristol Regional Medical Center 1 Medical Park Boulevard Bristol (Sullivan Co.), TN 37620 Troy Clark – (423)—230-8209 CN0302-012	The major medical equipment acquisition of a CyberKnife System for Radiosurgery and the initiation of stereotactic radiosurgery services. Approximately 2,600 square feet of new space will be constructed and 1,300 square feet space will be renovated space at the existing outpatient cancer center located on the medical center campus in Bristol, Tennessee. \$ 6,633,000.00
+Imaging Alliance – Nashville PET, LLC 52 White Bridge Road Nashville (Davidson Co.), TN 37205 Willis Sanders – (615)—312-0600 CN0302-013	The initiation of Positron Emission Tomography (PET) imaging services and the acquisition of PET imaging equipment. NOTE: CN0302-017 – Nashville PET, LLC filed a simultaneous review application. \$ 2,876,292.00
Baptist Outpatient Cardiac Catheterization Center Baptist 20 th Avenue Medical Plaza 300 20 th Avenue Nashville (Davidson Co.), TN 37203 Robert M. Limyansky – (770)—394-8465 CN0302-014	The establishment of a freestanding outpatient diagnostic cardiac catheterization laboratory. \$ 2,335,256.00
Crossroads Procedural Center 1805 Williamson Court, Suite 200 Brentwood (Williamson Co.), TN 37027 John Wellborn – (615)—665-2033 CN0302-015	The establishment of an ambulatory surgical treatment center limited to pain management. The facility will be located in approximately 5,500 square feet (SF) of space in an existing building at 1805 Williamson Court in Brentwood, Tennessee. The project will include approximately 2,500 SF of shared space with the private practice office of Pain and Spine Consultants Medical Group. The facility includes two (2) procedure rooms, nursing and staff stations, patient holding and recovery areas and other clinical and support space. \$ 790,222.00

NAME AND ADDRESS	DESCRIPTION
Knoxville Addiction Research and Treatment Center 7203 Chapman Highway Knoxville (Knox Co.), TN 37920 Rusty Titsworth – (615)—327-4528 CN0302-016	The initiation of methadone treatment and the establishment of a non-residential methadone treatment facility. \$ 733,130.00
+Nashville PET Center 3319 West End Avenue Nashville (Davidson Co.), TN 37203 John Crawford – (615)—665-8889 CN0302-017	The initiation of Positron Emission Tomography (PET) imaging services and the acquisition of PET imaging equipment. NOTE: This project was filed as a simultaneous review application of CN0302-013 – Imaging Alliance-Nashville PET, LLC. \$ 2,778,000.00

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EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0620 - Finance and Administration - Bureau of TennCare - Emergency rules realting to the TennCare Medicaid Program, including, but not limited to, terminology, eligibility requirements, medical services covered by the program and appeal rights, Chapter 1200-13-13 TennCare Medicaid, 1 T.A.R. (Janaury 2003). Filed December 13, 2002; effective through May 27, 2003. (12-10)
- 0620 - Finance and Administration - Bureau of TennCare - Emergency rules realting to the TennCare Standard Program, including, but not limited to, terminology, eligibility requirements, medical services covered by the program and appeal rights, Chapter 1200-13-14 TennCare Standard, 1 T.A.R. (Janaury 2003). Filed December 13, 2002; effective through May 27, 2003. (12-11)
- 1200 - Department of Health - Office of the Commissioner - Emergency rules covering procedures for administering reimbursement of providers of health care services who contract with state agencies, chapter 1200-24-4 Reimbursement of Health Care Provider Costs, 2 T.A.R. (February 2003) - Filed January 2, 2003; effective through June 16, 2003. (01-01)

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PROPOSED RULES

THE BOARD OF DENTISTRY - 0460

CHAPTER 0460-1 GENERAL RULES

Presented herein is a proposed amendment of the Board of Dentistry submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board of Dentistry 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 in the office of the Board of Dentistry on the First Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee 37247 1010 and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, TN 37243, and must be signed by twenty five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule or an association of twenty five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact:

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

The text of the proposed amendment is as follows:

AMENDMENT

Rule 0460-1-.02, Fees, is amended by adding to paragraph (1) the following language as a new, appropriately numbered subparagraph and renumbering the remaining subparagraphs accordingly, so that as amended, the new, appropriately numbered subparagraph shall immediately follow the subparagraph that contains the definition and fee for "Specialty Certification Application Fee," and shall read:

- | | |
|--|----------|
| (1) () Specialty Certification Examination Fee – A non-refundable fee to be paid each time a specialty exam is taken. | \$100.00 |
|--|----------|

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

The proposed rules set out herein were properly filed in the Department of State on the 17th day of March, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2003. (03-05)

THE STATE BOARD OF EDUCATION - 0520

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

Presented herein are proposed amendments of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate 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 with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8th Floor – William Snodgrass Building, 312 8th Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

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

The text of the proposed amendments are as follows:

AMENDMENTS

Subpart (i) of part 1 of subparagraph (a) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by deleting the subpart in its entirety and substituting instead the following language so that as amended the subpart shall read:

- (i) The language arts program, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate with instruction focusing on receptive and expressive language skills.

Part 1 of subparagraph (b) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

- 1. Grades K-8. The mathematics program, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate, with instruction focusing on the use of manipulatives to teach mathematical language skills and concepts.

Part 1 of subparagraph (c) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

- 1. Grades K-8. The science program, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate, with instruction focusing on laboratory experiences.

Part 1 of subparagraph (d) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

1. Grades K-8. The social studies program, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate, with instruction focusing on experiences to enable students to learn about themselves and others in the community, state, nation and world.

Part 1 of subparagraph (e) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

1. Health and Physical Education, Grades K-8. The health education and physical education programs, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate with instruction focusing on activities which will promote good health habits and enhance physical fitness.

Subparagraph (g) of paragraph (6) of Rule 0520-1-3-.05 State Curriculum, Requirement D is amended by adding the following language as part 5 so that as amended the part shall read:

1. Fine Arts. Grades K-8. The visual arts and music programs, provided annually, shall be based on state curriculum standards and shall be developmentally appropriate. Instruction in theater arts and dance may be incorporated into the curriculum consistent with state curriculum standards.

Subpart (iv) of part 10 of subparagraph (e) of paragraph (1) of Rule 0520-1-3-.06 Graduation, Requirement E is amended by deleting the subpart in its entirety and substituting instead the following language so that as amended the subpart shall read:

- (iv) Human Anatomy and Physiology

Authority: T.C.A. §49-1-302.

The proposed amendments set out herein were properly filed in the Department of State on the 31st day of March, 2003, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of March, 2003. (03-20)

THE STATE BOARD OF EDUCATION - 0520**CHAPTER 0520-14-1
CHARTER SCHOOLS**

Presented herein is the proposed rule of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this rule 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 rule is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8th Floor – William Snodgrass Building, 312 8th Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

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

The text of the proposed rule is as follows:

NEW RULE

Add a new Rule 0520-14-1 Charter Schools so that the new rule shall read as follows:

0520-14-1-.01 APPROVAL OF A CHARTER SCHOOL

- (1) The commissioner of education shall provide an application for sponsors to use in applying for a public school charter as authorized under the Tennessee Public Charter Schools Act of 2002, T.C.A. § 49-13-106(b)(1) and (b)(2).
- (2) The commissioner of education shall provide to the chartering authority (local board of education) sample scoring criteria addressing the elements of the charter school application specified in the Tennessee Public Charter Schools Act of 2002.
- (3) The chartering authority shall forward a copy of each application for a charter school to the commissioner of education and shall notify the commissioner immediately upon official action approving or denying approval of an application for a charter school. The commissioner of education shall notify the executive director of the state board of education of applications approved and denied by the chartering authority.
- (4) In the event that a sponsor submits an amended application, the chartering authority shall notify the commissioner of education immediately upon official action approving or denying approval of an amended application for a charter school. The commissioner of education shall notify the executive director of the state board of education of amended applications denied by the chartering authority.

O520-14-1-.02 APPEALS

- (1) The sponsor may appeal a decision by the chartering authority to deny an amended application for a newly created public school, created for the purpose of providing alternatives for students in schools failing to make adequate yearly progress, to the state board of education within ten (10) days. The sponsor shall forward the amended application to the executive director of the state board of education. The state board of education may request additional documentation from the sponsor and the chartering authority.
- (2) In reviewing the amended application, the state board of education shall use the sample scoring criteria provided by the commissioner of education to the local boards of education. In reviewing the amended application, the state board of education shall review the decision of the local board of education.
- (3) Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board of education shall hold a public hearing, attended by the board or its designated representative, in the school district in which the proposed charter school has applied for a charter. Subsequently, but within the sixty (60) days, the state board of education shall review the decision of the local board and shall forward its findings to the local board of education.
- (4) If the state board finds that the local board's decision was contrary to the best interests of the students, school district, or community, the state board shall remand such decision to the local board of education with written instructions for approval of the charter.

Authority: *T.C.A. § 49-1-302, 49-13-106, 49-13-107, 49-13-108, and 49-13-126.*

The proposed rules set out herein were properly filed in the Department of State on the 31st day of March, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2003. (03-21)

**THE DEPARTMENT OF HEALTH - 1200
OFFICE OF THE COMMISSIONER**

**CHAPTER 1200-24-4
REIMBURSEMENT OF HEALTH CARE PROVIDER COSTS**

Presented herein are proposed amendments of the Department of Health, Office of the Commissioner, submitted pursuant to Tennessee Code Annotated § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Office of the Commissioner, 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 Office of the Commissioner on the 3rd Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee, 37247, and in the Administrative Procedures Division of 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 copies of the entire text of the proposed amendments, contact: Gary Zelizer, Legislative Liaison, Office of the Commissioner, Third Floor - Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-0101, (615) 532-6145.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1200-24-4-.02, Definitions, is amended by deleting the rule in its entirety.

Authority: T.C.A. §§ 4-5-202 and 12-4-301.

Rule 1200-24-4-.03, General Provisions, is amended by deleting the language contained in (1), (1)(a), (1)(b) and (1)(c) in its entirety and substituting instead the following language, so that as amended, the new introductory sentence and the paragraphs dealing with reimbursement to physicians and other medical professionals, acute care hospitals and psychiatric hospitals shall read:

1200-24-4-.03 GENERAL PROVISIONS.

- (1) Providers of health care services who contract with state agencies for the care of persons shall be reimbursed for those medical procedures as follows:
 - (a) Physicians and other medical professionals delivering services can be reimbursed by procedure codes up to the rate of one-hundred percent (100%) of the Physicians' Medicare Fee Schedule using the updated national conversion factor referenced in the Federal Register and updated October 31st of each year. Where a state agency cannot procure a service at that rate, reimbursement at a higher rate can be made due to special circumstances, but only pursuant to a contract or departmental purchase authority approved by the Commissioner of the Department of Finance and Administration and the Comptroller of the Treasury.
 - (b) Acute care hospitals can be reimbursed up to one-hundred percent (100%) of the rate that Medicare pays hospitals for their inpatient hospital services at the predetermined rate for each discharge under the prospective payment system. Where a state agency cannot procure a service at that rate, reimbursement at a higher rate can be made due to special circumstances, but only pursuant to a contract or departmental purchase authority approved by the Commissioner of the Department of Finance and Administration and the Comptroller of the Treasury.
 - (c) Inpatient acute psychiatric hospital days can be paid at a rate of one-hundred percent (100%) of the Medicare reasonable cost basis, subject to per discharge limits. Where a state agency cannot procure a service at that rate, reimbursement at a higher rate can be made due to special circumstances, but only pursuant to a contract or departmental purchase authority approved by the Commissioner of the Department of Finance and Administration and the Comptroller of the Treasury.
 - (d) With respect to subparagraphs (a), (b) and (c), above, physicians and other medical professionals, acute care hospitals and inpatient acute psychiatric hospitals must submit a claim for reimbursement to any existing third party payor and evidence of adjudication of that claim must be submitted to the state agency before the agency will be responsible for reimbursement of health care services, supplies or equipment.

Authority: T.C.A. §§4-5-202 and 12-4-301.

The proposed rules set out herein were properly filed in the Department of State on the 27th day of March, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2003. (03-09)

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PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rule clarifying the rules governing provider reimbursement as interpreted by the Court of Appeals of Tennessee in *River Park Hospital, Inc. v. BlueCross BlueShield of Tennessee, Inc. and Volunteer State Health Plan, Inc., d/b/a BlueCare*, No. M2001-00288-COA-R3-CV, chapter 1200-13-12 Bureau of TennCare, 2 T.A.R. (February 2003) - Filed January 2, 2003; effective through June 13, 2003. (01-02)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rule clarifying the rules governing provider reimbursement as interpreted by the Court of Appeals of Tennessee in *River Park Hospital, Inc. v. BlueCross BlueShield of Tennessee, Inc. and Volunteer State Health Plan, Inc., d/b/a BlueCare*, No. M2001-00288-COA-R3-CV, chapter 1200-13-13 TennCare Medicaid, 2 T.A.R. (February 2003) - Filed January 2, 2003; effective through June 13, 2003. (01-03)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rule clarifying the rules governing provider reimbursement as interpreted by the Court of Appeals of Tennessee in *River Park Hospital, Inc. v. BlueCross BlueShield of Tennessee, Inc. and Volunteer State Health Plan, Inc., d/b/a BlueCare*, No. M2001-00288-COA-R3-CV, chapter 1200-13-14 TennCare Standards, 2 T.A.R. (February 2003) - Filed January 2, 2003; effective through June 13, 2003. (01-04)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rule protecting the due process rights of persons potentially eligible for medical assistance through the TennCare Standard program., chapter 1200-13-15 Administrative Hearing Unit, 2 T.A.R. (February 2003) - Filed January 29, 2003; effective through July 13, 2003. (01-23)
- 0780 - Commerce and Insurance - Division of Insurance - Public necessity rules dealing with by rule standards and procedures for the administration of pre-licensing education and examination requirements for persons applying to become insurance producers licensed in this state, Chapter 0780-1-74 Pre-Licensing Education and Examination Requirements for Insurance Producers, 1 T.A.R. (January 2003) - Filed December 30, 2002; effective through June 13, 2003. (12-20)

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RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-119, and 63-4-123. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 10th day of July, 2003.

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0260-2-.12, Continuing Education, is amended by deleting parts (3) (b) 1. and (3) (b) (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as part (3) (b) 3., and is further amended by deleting subparagraph (4) (c) in its entirety and renumbering the remaining paragraphs accordingly, so that as amended, the new parts (3) (b) 1., (3) (b) 2., and (3) (b) 3. shall read:

- (3) (b) 1. Certificates verifying the licensee's attendance at continuing education program(s). The certificate must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
- (3) (b) 2. An original letter on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, licensee's name, and license number.
- (3) (b) 3. Certificates or letters verifying successfully passing a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (4). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.

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

Rule 0260-2-.12, Continuing Education, is amended by adding the following language as new paragraph (4) and renumbering the remaining paragraphs accordingly.

- (4) Multi-Media
 - (a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:
 - 1. The Internet
 - 2. Closed circuit television
 - 3. Satellite broadcasts
 - 4. Correspondence courses
 - 5. Videotapes
 - 6. CD-ROM
 - 7. DVD
 - 8. Teleconferencing
 - 9. Videoconferencing
 - 10. Distance learning
 - (b) A maximum of six (6) credit hours may be granted for multi-media courses during each calendar year.

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

Rule 0260-3-.12, Continuing Education, is amended by deleting parts (4) (b) 1. and (4) (b) (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as part (4) (b) 3., and is further amended by deleting subparagraph (5) (c) in its entirety and renumbering the remaining paragraphs accordingly, so that as amended, the new parts (4) (b) 1., (4) (b) 2., and (4) (b) 3. shall read:

- (4) (b) 1. Certification of the certificate holder's attendance at continuing education program(s). The certificate must include the following: Continuing education program's sponsor, date, clock hours, awarded continuing education units (CE units must be converted to clock hours), program title, certificate holder's name, and certificate number.
- (4) (b) 2. An original letter on official stationery from the continuing education program's sponsor, date, clock hours awarded (CE units must be converted to clock hours), program title, certificate holder's name, and certificate number.

- (4) (b) 3. Certificates or letters verifying successfully passing a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certificate number.

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

Rule 0260-3-.12, Continuing Education, is amended by adding the following language as new paragraph (5) and renumbering the remaining paragraphs accordingly.

(5) Multi-Media

- (a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:
1. The Internet
 2. Closed circuit television
 3. Satellite broadcasts
 4. Correspondence courses
 5. Videotapes
 6. CD-ROM
 7. DVD
 8. Teleconferencing
 9. Videoconferencing
 10. Distance learning
- (b) A maximum of six (6) credit hours may be granted for multi-media courses during each odd-numbered calendar year.

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

Rule 0260-5-.12, Continuing Education, is amended by deleting parts (4) (b) 1. and (4) (b) (2) in their entirety and substituting instead the following language, and is further amended by adding the following language as part (4) (b) 3., and is further amended by adding the following language as new paragraph (5) and renumbering the remaining paragraphs accordingly, so that as amended, the new parts (4) (b) 1., (4) (b) 2., and (4) (b) 3. and the newly numbered paragraph (5) shall read:

- (4) (b) 1. Certification of the certificate holder's attendance at continuing education program(s). The certificate must include the following: Continuing education program's sponsor, date, clock hours, awarded continuing education units (CE units must be converted to clock hours), program title, certificate holder's name, and certificate number.
 - (4) (b) 2. An original letter on official stationery from the continuing education program's sponsor, date, clock hours awarded (CE units must be converted to clock hours), program title, certificate holder's name, and certificate number.
 - (4) (b) 3. Certificates or letters verifying successfully passing a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certificate number.
- (5) Multi-Media
- (a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:
 - 1. The Internet
 - 2. Closed circuit television
 - 3. Satellite broadcasts
 - 4. Correspondence courses
 - 5. Videotapes
 - 6. CD-ROM
 - 7. DVD
 - 8. Teleconferencing
 - 9. Videoconferencing
 - 10. Distance learning
 - (b) A maximum of six (6) credit hours may be granted for multi-media courses during each odd-numbered calendar year.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of March, 2003.
(03-13)

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

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to consider the promulgation of rules and amendments to rules pursuant to T.C.A. § 68-126-204. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Conference Room A on the 5th Floor of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on May 19, 2003.

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, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact Kay Searcy, Department of Commerce and Insurance, Division of Fire Prevention, 500 James Robertson Parkway, 3rd Floor, Nashville, Tennessee 37243 at (615) 741-2981.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 0780-2-4
NEW MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

AMENDMENTS

Chapter 0780-2-4 New Manufactured Homes and Recreational Vehicles is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

**CHAPTER 0780-2-4
NEW MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

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0780-2-4-.01	Definitions	0780-2-4-.08	Inspections
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0780-2-4-.01 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the definitions of terms contained in the Uniform Standards Code for Manufactured Homes and Recreational Vehicles Act (T.C.A. Title 68, Chapter 126, Part 2) shall be applicable. In addition, the following definitions are applicable to this chapter:

- (1) “HUD label” means the approved form of certification by the manufacturer that, under 24 C.F.R. § 3282.362(c)(2)(i), is permanently affixed to each transportable section of each manufactured home manu-

factured for sale to a purchaser in the United States. (“label” or “certification label” as defined by 24 C.F.R. § 3282.7).

- (2) “Installer” means any person engaged in the installation of a stabilizing system or a support system for a manufactured home. After January 1, 2004, “installer” means any person engaged in the set-up of a manufactured home.
- (3) “Park trailer” means a vehicular unit that meets all of the following criteria:
 - (a) Built on a single chassis, mounted on wheels;
 - (b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;
 - (c) Of such construction as to permit setup by persons without special skills using only hand tools which may include lifting, pulling and supporting devices;
 - (d) A gross trailer area not to exceed four hundred (400) square feet when in the setup mode.
- (4) Effective January 1, 2004, “retailer” means any person engaged in the sale, leasing, or distribution of new or used manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale (“dealer” as defined by 24 C.F.R. § 3282.7) or any person engaged in the sale and distribution of manufactured homes for resale. (“distributor” as defined by 24 C.F.R. § 3282.7). “Retailer” does not include any financial institution or mortgage company that sells new or used manufactured homes.

Authority: *T.C.A. §§ 68-126-202, 68-126-204 and 68-126-210 and 2002 Tenn. Pub. Acts ch. 793 §§ 1 and 21.*

0780-2-4-.02 LICENSING OF MANUFACTURERS.

- (1) An applicant for a license as a manufactured home manufacturer shall complete an application form prescribed by the commissioner and submit the same to the commissioner along with a nonrefundable application fee of one hundred dollars (\$100.00). The applicant shall also submit a surety bond in the amount of fifty thousand dollars (\$50,000.00), executed by the applicant as principal and issued by a surety company qualified to do business in the State of Tennessee.
- (2) A license as a manufactured home manufacturer shall expire one (1) year after the date of issuance, unless renewed. Any person desiring to renew a license later than ninety (90) days after the expiration of the license shall submit a new application and meet all other application requirements.
- (3) Any manufacturer who fails to renew a license prior to its expiration but before ninety days (90) days after its expiration shall pay a late penalty of fifty dollars (\$50.00) in addition to the renewal fee.
- (4) Any manufacturer who commences business in this State prior to obtaining proper licensure shall be assessed a civil penalty of five hundred dollars (\$500.00) for each manufactured home sold prior to licensure.

Authority: *T.C.A. §§ 68-126-204, 68-126-206 and 68-126-210 and Tenn. Pub. Acts ch. 793 §§ 6, 7 and 21.*

0780-2-4-.03 LICENSING OF RETAILERS.

- (1) An applicant for a license as a manufactured home retailer shall complete an application form prescribed by the commissioner and submit the same to the commissioner along with a nonrefundable application fee of forty dollars (\$40.00). The applicant shall also submit a surety bond in the amount of twenty-five thousand dollars (\$25,000.00), executed by the applicant as principal and issued by a surety company qualified to do business in the State of Tennessee.
- (2) Effective July 1, 2003, an applicant for a license as a manufactured home retailer shall provide proof, at the time of application, of having completed a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes.
- (3) Effective July 1, 2003, an applicant for a license as a manufactured home retailer shall provide proof, at the time of application, of having passed an examination, approved by the commissioner, in the installation of manufactured homes.
- (4) A license as a manufactured home retailer shall expire one (1) year after the date of issuance, unless renewed. Any person desiring to renew a license later than ninety (90) days after the date of its expiration shall submit a new application and meet all other application requirements.
- (5) Effective January 1, 2004, and as a prerequisite to renewal of a license for 2004 as a manufactured home retailer, the retailer shall provide proof of having completed a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes and of having passed an examination, approved by the commissioner, in the installation of manufactured homes.
- (6) Any retailer who fails to renew a license prior to its expiration but before ninety (90) days after its expiration shall pay a late penalty of fifty dollars (\$50.00) in addition to the renewal fee.
- (7) Any retailer who commences business in this State prior to obtaining proper licensure shall be assessed a civil penalty of one thousand dollars (\$1,000.00) for each manufactured home sold prior to licensure.

Authority: *T.C.A. §§ 68-126-204, 68-126-206 and 68-126-210 and Tenn. Pub. Acts ch. 793 §§ 6, 7 and 21.*

0780-2-4-.04 LICENSING OF INSTALLERS.

- (1) Effective July 1, 2003, an applicant for a license as a manufactured home installer shall complete an application form prescribed by the commissioner and submit the same to the commissioner along with a nonrefundable application fee of twenty-five dollars (\$25.00). The applicant shall also submit a surety bond in the amount of ten thousand dollars (\$10,000.00), executed by the applicant as principal and issued by a surety company qualified to do business in the State of Tennessee.
- (2) Effective July 1, 2003, an applicant for a license as a manufactured home retailer shall provide proof, at the time of application, of having completed a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes.
- (3) Effective July 1, 2003, an applicant for a license as a manufactured home installer shall provide proof, at the time of application, of having passed an examination, approved by the commissioner, in the installation of manufactured homes.

- (4) A license as a manufactured home installer shall expire one (1) year after the date of issuance, unless renewed. Any person desiring to renew a license later than ninety (90) days after the date of its expiration shall submit a new application and meet all other application requirements.
- (5) Effective January 1, 2004, and as a prerequisite to renewal of a license for 2004 as a manufactured home installer, the installer shall provide proof of having completed a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes and of having passed an examination, approved by the commissioner, in the installation of manufactured homes.
- (6) Any installer who fails to renew a license prior to its expiration but before ninety (90) days after its expiration shall pay a late penalty of fifty dollars (\$50.00) in addition to the renewal fee.
- (7) Any installer who commences business in this State prior to obtaining proper licensure shall be assessed a civil penalty of one thousand dollars (\$1,000.00) for each manufactured home set up prior to licensure.

Authority: *T.C.A. §§ 68-126-204, 68-126-206 and 68-126-210 and Tenn. Pub. Acts ch. 793 §§ 14, 17 and 21.*

0780-2-4-.05 ADOPTION BY REFERENCE OF STANDARDS.

- (1) All manufactured homes (but not park trailers), shall be constructed in accordance with the standards established by the United States Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.). All multi-family homes designed and manufactured with more than one (1) living unit must be constructed in accordance with the Tennessee Modular Building Act (T.C.A. Title 68, Chapter 126, Part 3).
- (2) All items within the gross floor area of new and used manufactured homes, including porches, not covered by the Federal Manufactured Housing Safety Standards shall comply with the 2000 edition of the International Building Code for One and Two Family Dwellings.
- (3) Site built items shall comply with local codes or the 2000 edition of the International Building Code for One and Two Family Dwellings.
- (4) Any park trailer that enters the first stage of production after July 1, 2003 shall be constructed in accordance with the Standard for Park Trailers, 1998 edition, ANSI A119.5; however, the definition of "park trailer" shall be that set out in rule 0780-2-4-.01.
- (5) Any recreational vehicle that enters the first stage of production after July 1, 2003 shall be constructed in accordance with the standard for Recreational Vehicles, 1999 edition, ANSI A119.2; NFPA 1192, published by the National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269; however, the definition of "recreational vehicle" shall be that set out in T.C.A. § 68-126-202.

Authority: *T.C.A. §§68-126-202, 68-126-204 and 68-126-210 and 2002 Tenn. Pub. Acts ch. 793 § 21.*

0780-2-4-.06 FEES FOR ENFORCEMENT OF FEDERAL STANDARDS.

- (1) The following schedule of fees is hereby established for the performance of Primary Inspection Agency (PIA) services specified in the HUD manufactured home procedural and enforcement regulations:

- (a) For plant approval pursuant to 24 C.F.R. § 3282.362(b), including preparation and issuance of a certification report, forty dollars (\$40.00) per inspector per hour, plus the reasonable and necessary expenses of each inspector assigned to the inspection team. The inspector shall be reimbursed for reasonable travel expenses in accordance with the state travel regulations promulgated by the commissioner of finance and administration.
- (b) For production surveillance pursuant to 24 C.F.R. § 3282.362(c), thirty dollars (\$30.00) for each floor to which a HUD label is affixed and forty dollars (\$40.00) per inspector per hour, plus the reasonable and necessary expenses of each inspector assigned, for inspection services in excess of those required by the cited section. The inspector shall be reimbursed for reasonable travel expenses in accordance with the state travel regulations promulgated by the commissioner of finance and administration.

Authority: T.C.A. §§68-126-204 and 68-126-210.

0780-2-4-.07 CERTIFICATES OF COMPLIANCE FOR PARK TRAILERS AND RECREATIONAL VEHICLES.

- (1) No new park trailer or recreational vehicle may be sold, transferred or leased unless there is affixed to the unit a State of Tennessee certification decal evidencing compliance with the appropriate standards established in rule 0780-2-4-.05. Each manufacturer shall make written request to the commissioner for certification decals.
- (2) The manufacturer shall affix certification decals to all park trailers and recreational vehicles prior to the shipment of such units from the manufacturing plant.
- (3) The certification decal shall be placed within thirty-six inches (36") from the floor line on the outside wall opposite the hinge side of the front door, and within eighteen inches (18") from the edge of the door.
- (4) Any manufacturer of park trailers or recreational vehicles shall maintain records of each certification decal affixed to a unit during each month on forms provided by the commissioner, and the commissioner shall provide the necessary forms with each order of decals. The manufacturer shall submit a monthly report of each certification decal affixed to a unit to the commissioner no later than the fifth day of the month following the previous month's reporting period.
- (5) The manufacturer shall use certification decals in numerical order.
- (6) The commissioner will not supply certification decals to a manufacturer unless and until the manufacturer has complied with paragraph (4) of this rule.
- (7) The manufacturer shall be responsible for the safekeeping of all certification decals issued to it and shall notify the commissioner in writing immediately upon discovery of the loss or misplacement of any decals.
- (8) The manufacturer shall submit to the commissioner a fee of twenty dollars (\$20.00) for each certification decal with each request for decals.

Authority: T.C.A. §§68-126-204, 68-126-207 and 68-126-210.

0780-2-4-.08 INSPECTIONS OF MANUFACTURED HOMES.

- (1) All manufactured homes on which a HUD label is required are subject to inspection on retailers' lots within the State of Tennessee for transit damage, HUD label tampering, retailer performance and retailer alterations (see 24 C.F.R. § 3282.303(a) and (b)).
- (2) All recreational vehicles and park trailers on which a certification decal is required are subject to inspection on retailers' lots within the State of Tennessee for transit damage, certification decal tampering, retailer performance and retailer alterations.

Authority: T.C.A. §§68-126-204 and 68-126-210 and 2002 Tenn. Pub. Acts ch. 293 §§ 1 and 21.

0780-2-4-.09 RESPONSIBILITIES OF RETAILERS.

- (1) The retailer shall inspect each park trailer or recreational vehicle received from the manufacturer to determine whether the required Tennessee certification label is properly affixed. If not, the retailer shall, within five (5) days after receipt of the unit, notify the manufacturer and the commissioner in writing of the omission. Immediately upon receipt of such notification, the manufacturer shall purchase a certification decal from the commissioner and install it on the unit on the retailer's lot.
- (2) Within five (5) days after receipt of any manufactured home not bearing a HUD label, the retailer shall notify the manufacturer and the commissioner in writing of the omission. Immediately upon receipt of such notification, the manufacturer shall provide evidence to the commissioner of the HUD label assigned to the unit at the time of manufacture.

Authority: T.C.A. §§68-126-204 and 68-126-210 and 2002 Tenn. Pub. Acts ch. 293 § 1 and 21.

0780-2-4-.10 REMOVAL OF DECALS.

No decal or label, once affixed, shall be removed from a unit or transferred from one unit to another.

Authority: T.C.A. §§68-126-204 and 68-126-210.

0780-2-4-.11 RED TAGS.

- (1) No unit bearing a red tag because of violation(s) of any of the standards prescribed in this chapter shall be moved, shipped, sold or leased until the violation(s) is corrected and the tag is removed by the State manufactured housing inspector.
- (2) Any unit moved, shipped, sold or leased prior to the removal of the red tag shall:
 - (a) be returned to the retailer's lot for reinspection by the State; or
 - (b) may remain at the location to which the unit had been delivered; provided, the retailer shall pay a fee of forty dollars (\$40.00) per hour, including travel time to and from the retailer's lot, plus all reasonable and necessary expenses incurred by the State manufactured housing inspector for reinspection. The inspector shall be reimbursed for reasonable travel expenses in accordance with the state travel regulations promulgated by the commissioner of finance and administration.

- (3) There is no charge for the first reinspection; the retailer shall pay a fee of fifty dollars (\$50.00) for each subsequent inspection on the same unit.

Authority: *T.C.A. §§ 68-126-204 and 68-126-210 and 2002 Tenn. Pub. Acts ch. 293 § 1 and 21.*

0780-2-4-.12 ACCEPTABLE COURSE TOPICS.

- (1) Credit may be granted for either qualifying or continuing education courses which cover installation topics. At a minimum, each course shall provide at least one (1) hour of instruction in soil capacity appropriate to the grand division(s) of Tennessee in which the retailer or installer engages in business. Examples of acceptable course topics are the following:
 - (a) Acceptance of the unit, including, but not limited to:
 1. Checking labeling of the unit;
 2. Data plate information;
 3. Transportation damage;
 4. Installation manual.
 - (b) Planning and site preparation, including, but not limited to:
 1. Drainage and grading;
 2. Soil bearing capacity;
 3. Vapor barriers;
 4. Vegetation;
 5. Ventilation;
 6. FEMA flood zones.
 - (c) Foundation installation, including, but not limited to:
 1. Proper location of footings and piers;
 2. Proper construction of footings and piers.
 - (d) Anchor installation, including, but not limited to:
 1. Anchor locations;
 2. Anchor embedment;
 3. Securing of straps.

- (e) Connection of multi-wide units, including, but not limited to:
 - 1. Connection of roof elements;
 - 2. Connection at floors;
 - 3. Connection at walls.

- (f) Plumbing installation, including, but not limited to:
 - 1. Potable water sources and supply lines;
 - 2. Supply pressure shut-offs;
 - 3. Heat tape installation;
 - 4. Piping protection;
 - 5. Waste line size, material and support;
 - 6. Distribution piping test;
 - 7. Drain waste vent (DWV) testing;
 - 8. Fixture testing.

- (g) Mechanical installation, including, but not limited to:
 - 1. Flue and spark arrester installation;
 - 2. Heat producing appliances;
 - 3. Dryer vent installation;
 - 4. Fuel supply piping tests;
 - 5. Duct installation and insulation;
 - 6. Exterior appliance installation (air conditioning).

- (h) Electrical installation, including, but not limited to:
 - 1. Service entrance connection and location;
 - 2. Grounding;
 - 3. Electrical crossover connection;
 - 4. Fixture installation;
 - 5. Electrical testing.

- (i) Exterior finish and thermal installation, including, but not limited to:
 - 1. Site-installed insulation;

2. Siding application;
 3. Roofing application.
- (j) Ancillary installations, including, but not limited to:
1. Structurally independent additions and alterations;
 2. Bottom board repairs;
 3. Skirting installations;
 4. Basement installations.
- (k) Tennessee laws and rules governing manufactured homes and manufactured home installation.
- (2) Each course shall provide fifteen (15) hours of training for participants.
- (3) A course offered for continuing education purposes only shall consist of no fewer than five (5) hours of instruction. Each course offered for continuing education shall include instruction in any three (3) different subjects referenced in this rule.

Authority: T.C.A. §§68-126-204, 68-126-206 and 68-126-210 and Tenn. Pub. Acts ch. 793 §§ 14 and 21.

0780-2-4-.13 CONTINUING EDUCATION.

- (1) Beginning January 1, 2004 and as a prerequisite to renewing a license as a retailer or an installer, the licensee shall have obtained five (5) hours of continuing education credit during the preceding twelve (12)-month period.
- (2) A continuing education course must be approved by the commissioner before the licensee will be granted credit for the course.
- (3) The licensee shall provide verification to the commissioner of having obtained the continuing education credits required by this rule. Verification consists of a form certifying attendance at the course, the subjects covered and the number of continuing education hours obtained at the course.
- (4) The licensee shall submit to the commissioner the licensee's verification form after taking the course and prior to the expiration of his or her license. The licensee is responsible for ensuring timely submittal of the required verification.
- (5) In order to obtain approval to provide course instruction, the course provider shall submit to the commissioner materials including an outline of the course instruction, biography of the instructor, the methods and tools that will be utilized in the course, number of instruction hours provided and the dates and times the course will be offered. A course provider seeking approval of a course pursuant to this paragraph shall submit the required documentation no later than thirty (30) days prior to the first offering of the course.
- (6) A licensee may apply on an individual basis for continuing education credit for a course which has not been approved in advance by the commissioner by submitting an agenda, the number of instructional hours provided, the dates and times the course was offered, verification of attendance by both the regis-

trant and the course instructor and any additional information requested by the commissioner as necessary for review of the course. A licensee seeking approval of a course pursuant to this paragraph shall submit the required documentation as soon as practicable after completion of the course; provided, that credit will not be granted later than thirty (30) days after the licensee takes the course. No credit for the course will be awarded unless and until the course is approved by the commissioner or his or her authorized representative.

- (7) Continuing education credit will not be awarded for any course taken more than one (1) time every four (4) years.

Authority: T.C.A. §§68-126-204, 68-126-206 and 68-126-210 and Tenn. Pub. Acts ch. 793 §§ 14 and 21.

CHAPTER 0780-5 STABILIZING OF MANUFACTURED HOMES

AMENDMENTS

Chapter 0780-2-5 Stabilizing of Manufactured Homes is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

CHAPTER 0780-2-5 INSTALLATION OF MANUFACTURED HOMES

TABLE OF CONTENTS

0780-2-5-.01 Definitions	0780-2-5-.03 Approval of Anchoring-Stabilizing Systems
0780-2-5-.02 Adoption by Reference of Standards	0780-2-5-.04 Permits and Inspections

0780-2-5-.01 DEFINITIONS.

- (1) For the purpose of this chapter unless the context otherwise requires, the definitions of terms contained in T.C.A. § 68-126-402 shall be applicable.
- (a) “Drainage and grade” means the site shall be crowned and graded a minimum of ten (10) feet around the perimeter of the home to slope away from the home to prevent moisture from accumulating under the home.
- (b) “Site preparation” shall include drainage and grade, soil bearing capacity, vapor barrier installation, and vegetation removal.
- (c) “Soil bearing capacity” is measured in pounds per square foot, and the portion of the site where the home will be placed must be undisturbed soil or compacted fill. Filled soil must be compacted to at least ninety percent (90%) of its maximum relative density.
- (d) “Vapor barrier” shall be at least a six mil thick minimum layer of polyethylene sheeting or equivalent placed on the ground, under the home, from outside wall to outside wall, ensuring that joints in the polyethylene sheeting overlap twelve (12) inches.

- (e) “Vegetation” means all organic material including debris and shall be removed from the area under the home.
- (f) “Ventilation” shall be provided at a rate of at least one (1) square foot of ventilation for every one hundred fifty (150) square feet of floor space in the home.

Authority: T.C.A. §§68-126-204, 68-126-402 and 68-126-405 and 2002 Tenn. Pub. Acts ch. 793 § 21.

0780-2-5-.02 ADOPTION BY REFERENCE OF STANDARDS.

- (1) Effective January 1, 2004, any new manufactured home subject to the Tennessee Manufactured Home Installation Act shall be installed in accordance with the following criteria:
 - (a) In compliance with the manufacturer’s instructions, if provided or available.
 - (b) If the manufacturer has not provided or does not make available suitable instructions, then the home shall be installed according to instructions prepared and sealed by an engineer registered in the State of Tennessee; or
 - (c) As an alternative to subsections (1)(a) and (1)(b) of this rule, the home may be installed according to the instructions contained in ANSI 225.1, 1994 edition, until such time as federal standards are implemented pursuant to the federal Manufactured Housing Improvement Act of 2000, at which time the federal standard shall supplant the ANSI 225.1, 1994 edition instructions.
 - (d) In addition to the requirements of subsections (1)(a), (1)(b), or (1)(c), installation shall comply with federal emergency management regulations applicable to flood zones.
- (2) Effective January 1, 2004, any used manufactured home subject to the Tennessee Manufactured Home Installation Act shall be installed in accordance with the following criteria:
 - (a) In compliance with the manufacturer’s manual in use at the time the home was manufactured.
 - (b) As an alternative to subsection (2)(a), the home shall be installed according to instructions prepared and sealed by an engineer registered in the State of Tennessee; or
 - (c) As an alternative to subsections (2)(a) and (2)(b) of this rule, the home may be installed according to the instructions contained in ANSI 225.1, 1994 edition, until such time as federal standards are implemented pursuant to the federal Manufactured Housing Improvement Act of 2000, at which time the federal standard shall supplant the ANSI 225.1, 1994 edition instructions.
 - (d) In addition to the requirements of subsections (2)(a), (2)(b), or (2)(c), installation shall comply with federal emergency management regulations applicable to flood zones.

Authority: T.C.A. §§68-126-204 and 68-126-405 and 2002 Tenn. Pub. Acts ch. 793 §§ 13 and 21.

0780-2-5-.05 APPROVAL OF ANCHORING-STABILIZING SYSTEMS.

- (1) Any system (or component thereof) designed to be used in installations subject to the Tennessee Manufactured Home Anchoring Act (to be known after January 1, 2004 as the Tennessee Manufactured Home Installation Act) must be approved for such use by the commissioner. To secure approval of a product, the manufacturer shall submit the following information:
 - (a) Detailed drawings (prepared by a registered professional engineer) of each type of anchor submitted for approval.
 1. Each drawing shall specify model identification, dimensions, types of welds or fastenings, construction materials, and method of securing straps.
 - (b) Test data (prepared and certified by a recognized independent testing laboratory) regarding the destructibility of each ground anchor model.
 1. The data shall demonstrate the capability of each model to withstand a force of not less than four thousand seven hundred twenty-five (4,725) pounds without failure, with straps or cable connected to the anchor head connecting device.
- (2) Each model must be field tested and certified for holding power by a recognized independent testing laboratory. The lab report shall show the following:
 - (a) Model tested as described by engineering drawings;
 - (b) Method of installation;
 - (c) Date of installation;
 - (d) Date of pull-out test;
 - (e) Soil profile description;
 - (f) Location of field test;
 - (g) Test equipment used;
 - (h) Pounds of force exerted and resultant vertical and horizontal movements (in inches) of anchor; and
 - (i) Failure point of anchor. Failure shall be considered to have occurred when the point of connection between the tie and anchor moves more than two (2) inches at four thousand seven hundred twenty-five (4,725) pounds in the direction of the vertical tie when the anchoring equipment is installed in accordance with the manufacturer's instructions. Those ground anchors which are designed to be installed not that the loads on the anchor are other than direct withdrawal shall be designated and installed to resist an applied load of four thousand seven hundred twenty-five (4,725) pounds at forty-five (45) degrees from horizontal without displacing the anchor more than four (4) inches horizontally at the point where the tie attaches to the anchor.
- (3) Within sixty (60) days after receipt of a submission, the commissioner will inform the manufacturer by letter of the results of its review. If approval of a product is denied, such letter shall state the reason(s) for the denial.

- (4) Should any change in construction or material be made in a model, approval of that model is withdrawn. The revised model must be completely resubmitted for approval under this rule.

Authority: T.C.A. §§68-126-204 and 68-126-405 and 2002 Tenn. Pub. Acts ch. 793 §§ 10 and 21.

0780-2-5-.04 PERMITS AND INSPECTIONS.

- (1) Effective January 1, 2004, an installer shall apply for an installation permit prior to installing a manufactured home and shall pay an inspection fee of forty-five dollars (\$45.00). The permit shall be purchased and the fee shall be paid to the county clerk in any county in this State.
- (2) Upon payment of the inspection, the county clerk shall provide the installer a permit decal.
- (3) A permit decal shall be placed on each new and used home that is installed after January 1, 2004.
- (4) The decal shall be affixed inside the electrical panel box cover.
- (5) The installer shall write the address where the home is located on the permit, in permanent marker.
- (6) In case of rejection of any part of the home installation, a new permit decal shall be purchased.
- (7) If a permit decal is lost or destroyed, a replacement decal shall be purchased. The applicant for the replacement decal shall provide to the county clerk an affidavit stating that the decal was lost or destroyed.
- (8) Each installer shall submit a report to the commissioner on a weekly basis, describing the homes installed that week, along with homes scheduled to be installed during the next week on a form designed by the commissioner.

Authority: T.C.A. §§68-126-204 and 68-126-405 and 2002 Tenn. Pub. Acts ch. 793 §§ 15 and 21.

CHAPTER 0780-2-8 USED FACTORY-MANUFACTURED HOMES

AMENDMENTS

Chapter 0780-2-8 Used Factory-Manufactured Homes is amended by deleting the word “dealer” wherever it appears and replacing it with the word “retailer”.

Authority: T.C.A. §§68-126-204 and 68-126-405 and 2002 Tenn. Pub. Acts ch. 793 §§ 1 and 21.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of March, 2003. (03-15)

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, Tennessee at 2:30 p.m. (CDT) on the 27th day of May, 2003.

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1370-1-.05, Procedures for Licensure, is amended by deleting parts (2) (c) 1. and (2) (c) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (2) (c) 1. and (2) (c) 2. shall read:

- (2) (c) 1. Master's or doctorate degree in the area of speech language pathology or audiology. Unless already submitted pursuant to rule 1370-1-.10, it is the applicant's responsibility to request that a graduate transcript be submitted directly from the educational institution to the Board's Administrative Office. The transcript must show that graduation with at least a master's level degree has been completed and carry the official seal of the institution.
- (2) (c) 2. Successfully complete a minimum of three hundred and seventy-five (375) clock hours of supervised clinical experience ('practicum') with individuals having a variety of communications disorders, as required by ASHA. The experience shall have been obtained through an accredited college or university which is recognized by ASHA. Unless already provided pursuant to rule 1370-1-.10, the applicant shall cause the Department Chair or other program head to provide directly to the Board's Administrative Office a letter attesting to the standards of the Practicum and the applicant's successful completion.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-110, and 63-17-114.

Rule 1370-1-.06, Fees, is amended by adding the following language as new subparagraph (3) (d):

- | (3) (d) Speech Language Pathology Assistant | Amount |
|---|----------|
| 1. Application | \$ 10.00 |

2.	Duplicate Registration Fee	25.00
3.	Endorsement/Verification Fee	25.00
4.	Initial Registration Fee	10.00
5.	Late Renewal Fee	25.00
6.	Licensure Renewal Fee (biennial)	20.00
7.	State Regulatory Fee (initial and biennial)	10.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-17-103, and 63-17-105.

Rule 1370-1-.10, Clinical Fellowships and Supervision, 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) Procedure for Registration

- (a) An applicant for registration as a Clinical Fellow shall cause a graduate transcript to be submitted directly from the educational institution to the Board's Administrative Office. The transcript must show that graduation with at least a master's or doctorate level degree has been completed and must carry the official seal of the institution.
- (b) An applicant for registration as a Clinical Fellow shall successfully complete a minimum of three hundred and seventy-five (375) clock hours of supervised clinical experience ('practicum') with individuals having a variety of communications disorders, as required by ASHA. The experience shall have been obtained through an accredited college or university which is recognized by ASHA. The applicant shall cause the Department Chair or other program head to provide directly to the Board's Administrative Office a letter attesting to the standards of the Practicum and the applicant's successful completion.
- (c) All supervising licensees must register any and all Clinical Fellows working under their supervision with the Board on a Registration form to be provided by the Board at the request of the supervising licensee. Registration must be made by the supervising licensee before or within ten (10) days of retaining each Clinical Fellow.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-110, and 63-17-114.

Rule 1370-1-.14, Speech Language Pathology Assistants and Supervision, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (c), and is further amended by deleting subparagraph (2) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b), (1) (c), and (2) (a) shall read:

- (1) (b) Beginning January 1, 2004, the minimum qualifications for persons employed as Speech Language Pathology Assistants shall be as follows:
 - 1. The applicant must have completed a program of study designed to prepare the student to be a Speech Language Pathology Assistant.

2. The applicant must have completed course work and field experiences in a technical training program for Speech Language Pathology Assistants approved by the American Speech-Language-Hearing Association (ASHA).
 - (i) Course work and fieldwork experience completed prior to January 1, 2004 will be evaluated to determine whether the applicant meets all criteria for registration.
 - (ii) All applicants for registration must be referred for registration by the program director of the technical training program where they have completed the field and course work requirements.

3. Course Work and Field Experiences – Applicants for registration must have earned sixty (60) college-level semester credit hours in a program of study that includes general education and the specific knowledge and skills for a SLPA. The training program shall include a minimum of one hundred (100) clock hours of field experiences supervised by a licensed Speech Language Pathologist.
 - (i) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in general education.
 - (ii) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in technical content. The course content must include the following:
 - (I) overview of normal processes of communication and overview of communication disorders
 - (II) instruction in assistant-level service delivery practices
 - (III) instruction in workplace behaviors
 - (IV) cultural and linguistic factors in communication
 - (V) observation
 - (iii) The one hundred (100) hours of supervised fieldwork experiences must provide appropriate experiences for learning the job responsibilities and workplace behaviors of a SLPA. These experiences are not intended to develop independent practice.

- (1) (c) Individuals registered with the Board as Speech Language Pathology Assistants before January 1, 2004 are exempt from the requirements of subparagraph (1) (b).

- (2) (a) Prior to commencement of training, individuals seeking to be Speech Language Pathology Assistants must be registered by the Supervising Speech Language Pathologist (Supervising Licensee) with the Board on a registration form provided at the request of the Supervising Licensee.
 1. The registration form shall be completed by the Supervising Licensee who shall return the completed form to the Board's Administrative Office with a copy of the written plan of training to be used for that SLPA.
 2. The SLPA shall not begin employment until he/she has registered with the Board and paid the required fees, as provided in rule 1370-1-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-103, and 63-17-105.

The notice of rulemaking set out herein was properly filed in the Department of State on the 12th day of March, 2003. (03-04)

THE TENNESSEE STATE BOARD OF COSMETOLOGY - 0440

There will be a hearing before the Tennessee State Board of Cosmetology to consider the promulgation of rules and amendments to rules pursuant to Tenn. Code Ann. § 62-4-105(e). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204 and will take place in Room 160 of the Davy Crockett Tower, located at 500 James Robertson Parkway, Nashville, Tennessee, at 9:00 AM CDT on the 2nd day of June, 2003.

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 of June 2, 2003, 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 Davy Crockett Tower, 5th Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243 and telephone number (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: The Tennessee State Board of Cosmetology, Attention: Evelyn Griffin, Davy Crockett Tower, 5th Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243, telephone number (615) 741-2515.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0440-1 LICENSING

AMENDMENTS

Subparagraph (d) of rule 0440-1-.01 Requirements for School License is amended by deleting the text of the subparagraph and substituting instead the following language; so that, as amended, subparagraph (d) shall read:

- (d) a minimum of five (5) floor-based hooded dryers;

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Paragraph (5) of rule 0440-1-.01 Requirements for School License is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, paragraph (5) shall read:

(5) New School.

- (a) A new school shall be closed to the public for ninety (90) days after the issuance of its license unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (b) A branch school shall be considered a new school unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (c) If an existing school requires an expansion campus facility, the facility must be located within two (2) miles of the main campus.

Authority: T.C.A. §§62-4-105(e) 62-4-120(f) and 62-4-122.

Paragraph (2) of rule 0440-1-.04 High School Equivalents is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, paragraph (2) shall read:

- (2) Public and vocational schools are exempt from the provisions of Tenn. Code Ann. § 62-4-122. However, the completion of at least ten (10) high school credits or obtaining a score of at least four hundred and fifty (450) on a General Educational Development test must be met prior to the completion of a cosmetology curriculum.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Rule 0440-1-.05 Requirements for Schools is amended by adding the following language after paragraph (4) as a new paragraph (5):

- (5) Teach a minimum of three (3) hours of theory each week.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Paragraph (1) of rule 0440-1-.07 Student Kits is amended by deleting subparagraphs (h) and (k) and re-designating the remaining subparagraphs accordingly.

Authority: T.C.A. §62-4-105(e).

Paragraph (1) of rule 0440-1-.09 Examination Passing Scores and School Attendance ratio is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, paragraph (1) shall read:

- (1) The minimum passing scores on all examinations held by the board shall be seventy percent (70%).

Authority: T.C.A. §62-4-105(e).

Subparagraph (a) of paragraph (2) of rule 0440-1-.11 Teacher Training Programs is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended subparagraph (a) of paragraph (2) shall read:

- (a) Contain at least sixteen (16) hours of actual instruction;

Authority: T.C.A. §§62-4-105(e) and 62-4-114.

Rule 0440-1-.13 Fees 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:

0440-1-.13. FEES.

(1) Application/examination

- (a) Cosmetologist.....set by contractor
- (b) Manicurist.....set by contractor
- (c) Instructor.....set by contractor
- (d) Aesthetician.....set by contractor
- (e) Shampoo Technician.....set by contractor
- (f) Natural Hair Stylist.....set by contractor

(2) Original License

- (a) Cosmetologist.....fifty dollars (\$50.00)
- (b) Manicurist.....fifty dollars (\$50.00)
- (c) Instructor.....seventy dollars (\$70.00)
- (d) Aesthetician.....fifty dollars (\$50.00)
- (e) Shampoo Technician.....fifty dollars (\$50.00)
- (f) Natural Hair Stylist..... fifty dollars (\$50.00)

(3) Renewal

- (a) Cosmetologist.....fifty dollars (\$50.00)
- (b) Manicurist.....fifty dollars (\$50.00)
- (c) Instructor.....sixty dollars (\$60.00)
- (d) Aesthetician.....fifty dollars (\$50.00)
- (e) Shampoo Technician.....fifty dollars (\$50.00)
- (f) Natural Hair Stylist.....fifty dollars (\$50.00)
- (g) Shampoo/Manicurist.....fifty dollars (\$50.00)

(4) Penalty for late renewal

- (a) Cosmetologist, manicurist, instructor, aesthetician, shampoo technician, and natural hair stylist...twenty-five dollars (\$25.00)

(5) Cosmetology, manicure, skin care, natural hair stylist or manicure/skin care shops

- (a) Inspection (new shop, relocated shop, shop with change of ownership).....fifty dollars (\$50.00)
- (b) License

- new shop.....fifty dollars (\$50.00)
- relocated shop.....fifty dollars (\$50.00)
- change of ownership.....fifty dollars (\$50.00)
- (c) Renewal.....fifty dollars (\$50.00)
- (d) Penalty for late renewal.....fifty dollars (\$50.00)
- (e) Change of name only.....ten dollars (\$10.00)
- (f) Change of ownership due to death of immediate family, no charge, with a copy of the death certificate or obituary.
- (6) School
 - (a) Application/license (new school)...three hundred dollars (\$300.00)
 - (b) License for relocated or change of ownership for a school.....one hundred seventy-five dollars (\$175.00)
- (7) Replacement or correction of license
 - (a) Lost, misplaced or mutilated license.....ten dollars (\$10.00)
 - (b) Change of name by any cosmetologist, aesthetician, manicurist, instructor, shampoo technician, natural hair stylist or shampoo/manicurist.....ten dollars (\$10.00)
 - (c) Certification for licensee.....fifty dollars (\$50.00)
 - 1. Fee should be sent with:
 - (i) written request for certification
 - (ii) I.D. number
 - (d) Student certification of hours.....twenty-five dollars (\$25.00)
 - 1. Fee should be sent with:
 - (i) certification request form
 - (ii) completion/withdrawal form (unless previously submitted)
- (8) Surcharge to issue manicurist license to former shampoo/manicurist pursuant to Tenn. Code Ann. § 62-4-131(c).twenty-five dollars (\$25.00)
- (9) Reciprocity.....fifty dollars (\$50.00)
- (10) In the event that any check, draft or order for the payment of a fee to the Board of Cosmetology is returned because of insufficient funds, only cash, certified check or money order will be accepted for the amount due, plus twenty dollars (\$20.00) additional fee.

- (11) Applications for licensure of a salon are valid for ninety (90) days after approval by the Board. Failure to obtain an approved inspection for operation within the ninety (90) days shall invalidate the application and require a new application and fee.

Authority: T.C.A. §§62-4-105(e), 62-4-110, 62-4-112, 62-4-115, 62-4-118, 62-4-120 and 62-4-131.

CHAPTER 0440-2 SANITARY RULES

AMENDMENTS

Subparagraph (a) of paragraph (1) of rule 0440-2-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, subparagraph (a) of paragraph (1) shall read:

- (a) “Establishment” means any cosmetology, manicure, skin care or natural hair stylist shop or school of cosmetology;

Authority: T.C.A. §§62-4-105(e) and 62-4-134.

Paragraph (2) of rule 0440-2-.03 Responsibility for Compliance is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, paragraph (2) shall read:

- (2) The manager or designated manager of a cosmetology, manicure, manicure/skin care, skin care or natural hair stylist shop shall be required to be present on the shop premises at all times cosmetology related, aesthetic or natural hairstyling services are being rendered.

Authority: T.C.A. §§62-4-105(e) and 62-4-134.

Rule 0440-2-.04 Posting of Rules and Licenses 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:

0440-2-.04 POSTING OF RULES AND LICENSES.

- (1) A copy of the cosmetology law (Tennessee Cosmetology Act of 1986) shall be readily available at each shop and school.
- (2) Licenses shall not be laminated.

Authority: T.C.A. §62-4-105(e).

Rule 0440-2-.07 Equipment 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:

0440-2-.07 EQUIPMENT.

- (1) Every cosmetology shop shall be equipped with at least:
 - (a) one (1) shampoo bowl with hot and cold running water and chair;
 - (b) one (1) enclosed storage area for clean towels;
 - (c) one (1) covered container for soiled towels;
 - (d) one (1) covered trash container maintained in a sanitary condition;
 - (e) one (1) dry sterilizer, with fumigant, or sanitary compartment;
 - (f) one (1) wet sterilizer;
 - (g) one (1) work station (standard size) for each operator;
 - (h) one (1) ultra violet sanitizer;
 - (i) one (1) blood spill kit; and
 - (j) adequate restroom facilities.

All containers for cosmetic products must be properly labeled.

- (2) Every skin care shop shall be equipped with at least:
 - (a) one (1) sink which provides hot and cold running water, excluding the bathroom;
 - (b) one (1) magnifying lamp;
 - (c) one (1) enclosed storage area for clean towels;
 - (d) one (1) covered container for soiled towels;
 - (e) one (1) covered trash container maintained in a sanitary condition;
 - (f) one (1) reclining facial chair/table;
 - (g) one (1) wet sterilizer for the equipment used;
 - (h) ultra violet sanitizer;
 - (i) one (1) blood spill kit; and
 - (j) adequate restroom facilities.

All containers for cosmetic products must be property labeled.

- (3) Every manicure shop shall be equipped with at least:

- (a) one (1) manicure table with stool or chair, per manicurist;
- (b) one (1) patron chair;
- (c) one (1) wet sterilizer for equipment used;
- (d) one (1) ultra violet sanitizer for equipment used;
- (e) enclosed storage area(s) for clean towels;
- (f) one (1) covered container for soiled towels;
- (g) one (1) covered trash container maintained in a sanitary condition;
- (h) one (1) sink which provides hot and cold running water, excluding the bathroom;
- (i) one (1) finger bowl per table;
- (j) one (1) covered container per table for cotton balls and swabs;
- (k) one (1) foot bath if pedicures are offered;
- (l) one (1) blood spill kit;
- (m) adequate restroom facilities; and
- (n) sign prominently posted stating that the customer has the right not to have drills used on his or her nails.

All containers for cosmetic products must be properly labeled.

- (4) Every natural hair stylist shop shall be equipped with at least:
 - (a) one (1) shampoo bowl with hot and cold running water and chair;
 - (b) one (1) enclosed storage area for clean towels;
 - (c) one (1) covered container for soiled towels;
 - (d) one (1) covered trash container maintained in a sanitary condition;
 - (e) one (1) dry sterilizer, with fumigant, or sanitary compartment;
 - (f) one (1) wet sterilizer;
 - (g) one (1) work station (standard size) for each operator;
 - (h) one (1) ultra violet sanitizer;
 - (i) one (1) blood spill kit; and

- (j) adequate restroom facilities.

All containers for cosmetic products must be properly labeled.

- (5) Every shop shall contain sufficient equipment to enable it to perform all services offered competently and efficiently. All equipment must be in working order.
- (6) Residential shops must maintain a separate entrance without requiring passage through any portion of a private residence. Separate restroom facilities must be provided apart from the living quarters.
- (7) A cosmetology, skin care, natural hair stylist or manicure shop located in a mobile home or mobile unit will not be approved for a license unless it is placed on a permanent foundation or otherwise rendered immobile.
- (8) A cosmetology, skin care, natural hair stylist or manicure shop must have a separate entrance from any other business except in malls or strip shopping centers.

Authority: T.C.A. §62-4-105(e) and 62-4-125.

Rule 0440-2-.13 Sterilization and Sanitation is amended by deleting the catchline and the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-2-.13 SANITATION AND DISINFECTION.

- (1) No licensee or student shall commence work on any patron before:
 - (a) Washing hands with soap and water; and
 - (b) Placing around the patron's neck a fresh and sanitary neck strip or towel, so that the cape does not contact the skin.
- (2) Wet Disinfection Standard
 - (a) All tools and implements, except those which come in contact with blood or body fluids, must be disinfected by complete immersion in an EPA registered, bactericidal, veridical, fungicidal and pseudomonacidal (Formulated for Hospitals) disinfectant that is mixed and used according to the manufacturer's directions.

Dry Disinfection Standard

 - (b) All tools and implements which have come in contact with blood or body fluids must be disinfected, at minimum, by complete immersion in an EPA registered disinfectant that is effective against HIV-1 and human Hepatitis B Virus or Tuberculocidal that is mixed according to the manufacturer's direction.
 - (c) Disinfected implements must be stored in a disinfected, dry, covered container.
- (3) A manicurist shall maintain a supply of antiseptic and/or liquid or spray styptic to be used in the event that a patron's skin is accidentally broken during the manicuring process.

- (4) Before use, manicuring instruments must be cleaned with soap and water, and immersed in seventy percent (70%) alcohol for at least ten (10) minutes. The alcohol for this purpose may be kept in a covered container of sufficient size to accommodate the instruments to be immersed.
- (5) When not in use, manicuring instruments must be dried and kept in a cabinet sanitizer.
- (6) Foot Bath
 - (a) A foot bath shall be cleaned and disinfected after each use.
 - (b) The filters and jets of the foot bath shall be flushed, cleaned and disinfected twice a week with the use of a hospital grade tuberculocidal disinfectant or an equivalent solution circulated through the machine for the minimum time recommended by the manufacturer.
- (7) Towels
 - (a) A separate, clean towel shall be provided for each patron.
 - (b) The headrest shall be covered with a separate, clean towel or paper for each customer.
 - (c) The practice of dipping a towel previously used for any purpose into a container of hot water and using the towel on a patron is prohibited.
- (8) Combs
 - (a) Each operator shall have a sufficient number of combs to allow for proper sanitation.
 - (b) No operator shall carry combs or other instruments in the pocket of his or her uniform.
- (9) Powders, Lotions and Creams
 - (a) Powders and lotions must be applied with cotton or gauze puffs, and disposed of in a waste receptacle immediately after use.
 - (b) Creams and other semi-solid substances must be removed from their containers with a clean spatula (or similar device), and disposed of in a waste receptacle immediately after use. Any device used for a removal of such substances must not contact the skin of a patron.
- (10) After handling any patron with any eruption or skin disorder, the attendant shall immediately disinfect their hands by thoroughly washing with soap and water, followed by rinsing in alcohol (70 to 80 percent pure), or some other suitable disinfection.
- (11) Finger bowls, basins, shampoo boards, cups, etc. shall be thoroughly cleaned after each service, and kept in good repair and in a sanitary condition at all times. Back bars and mirrors shall be kept clean at all times.

Authority: T.C.A. §§62-4-105(e) and 62-4-125.

**CHAPTER 0440-2
SANITARY RULES**

NEW RULES

0440-2-.16 Skin Peeling and Invasive Procedures
ucts

0440-2-.17 Prohibited Hazardous Substances and Use of Prod-

0440-2-.16 SKIN PEELING AND INVASIVE PROCEDURES.

- (1) Only the non-living, uppermost layers of facial skin, known as the epidermis, may, by any method or means, be removed, and in such event may be removed only for the purpose of beautification.
- (2) Skin removal techniques and practices which affect the living layers of facial skin, known as the dermis, are prohibited and constitute the practice of medicine.
- (3) Only commercially-available products for the removal of facial skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as it is required by manufacturer instructions.
- (4) Licensed estheticians may use alphahydroxy acid salon exfoliation products that do not exceed thirty percent (30%) concentration and have a pH of 3.0 or above. Higher concentrations or lower pH can cause irritation.
- (5) Invasive procedures which shall not be used include, but are not limited to, the following:
 - (a) Application of electricity which contracts the muscle;
 - (b) Abrasion of the skin below the non-living, epidermal layers; and
 - (c) The use of sharp blades to remove calluses or dead skin.

Authority: T.C.A. §62-4-105(e).

0440-2-.17 PROHIBITED HAZARDOUS SUBSTANCES AND USE OF PRODUCTS.

- (1) No establishment or school shall have on the premises cosmetic products containing hazardous substances which have been banned by the U. S. Food and Drug Administration (FDA) for use in cosmetic products, including, but not limited to, liquid methylmethacrylate. No product shall be used in a manner that is disapproved by the FDA.

Authority: T.C.A. §§62-4-105(e) and 62-4-133.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2003.
(03-14)

**THE DEPARTMENT OF ENVIRONMENT AND CONVSERVATION - 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 under the authority of Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be distributed to the members of the Tennessee Air Pollution Control Board for their review in regards to the proposed 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 159 Fourth Avenue North, Nashville, Tennessee, at 9:30 a.m. on May 16, 2003. Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of these comments to be submitted to the hearing officer at the public hearing.

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on May 16, 2003, at the following address: 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 May 16, 2003 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. Copies of documents concerning this matter are available for review at the office of the technical secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. John Patton, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0604.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-3-27
NITROGEN OXIDES**

AMENDMENT

Subparagraph (f) of paragraph (1) of rule 1200-3-27-.06 Nox Budget Trading Program For State Implementation Plans (40 CFR 96) is amended by striking the number "5519" and inserting in its place the number "5665", so that, as amended, the subparagraph shall read:

- (f) The provisions of Sec. 96.40 as adopted for Tennessee are revised to read as follows:

Sec. 96.40 State trading program budget.

The State trading program budget allocated by the permitting authority under Sec. 96.42 for a control period will equal the total number of tons of NOx emissions apportioned to the NOx Budget units under Sec. 96.4 in the State for the control period. The state trading program budget to be allocated to units under Sec. 96.4(a)(1) is 25814 tons/season, as specified for electricity generating units in the state in the EPA's final published budgets for states under the

EPA's NO_x SIP call. The budget to be allocated to units under Sec. 96.4(a)(2) is 5665 tons/season, the total of budgets for non-EGU units subject to this rule 1200-3-27-.06 and included in the EPA's inventory for the NO_x SIP call. The portion of the state trading program budget allocated to units under Sec. 96.4(a)(2) shall be as set forth in the state implementation plan. The nitrogen oxides allowance (NO_x allowance) allocated under Sec. 96.4(a)(2) must be subjected to a public hearing and submitted to the EPA for approval as a revision to the state implementation plan. The permitting authority may allocate additional allowances to NO_x Budget units that have been generated through NO_x emission reductions from industrial, mobile, and area source sectors that are permanent, enforceable, quantifiable, and surplus as determined by and approved by the Administrator and the permitting authority.

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2003. (03-19)

**THE TENNESSEE DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH INFORMATICS
HEALTH STATISTICS AND RESEARCH**

There will be a hearing before the Tennessee Department Of Health, Bureau Of Health Informatics, Health Statistics And Research to consider the promulgation of new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204 and 68-1-119. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Room on the Ground Floor of the Cordell Hull Building, located at 425 5th Avenue North, Nashville, Tennessee at 9:00 a.m. CST on the 16th day of May, 2003.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Bureau Of Health Informatics, Health Statistics And Research 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 Bureau's ADA Coordinator at the Department of Health, Bureau Of Health Informatics, Health Statistics And Research at the following address and/or phone number:

Charlotte Jones, 6th Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247--5262, 741-0352.

For a copy of the entire text of this notice of rulemaking hearing contact: Marguerite Lewis, 4th Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-5262, (615) 532-6566

SUBSTANCE OF PROPOSED RULE

NEW RULE

TABLE OF CONTENTS

1200-7-4-.01	Definitions	1200-7-4-.06	Penalty Assessment
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1200-7-4-.05	Submission Schedule	1200-7-4-.10	Confidential Information

1200-7-4-.01 DEFINITIONS.

- (1) “Ambulatory Surgical Treatment Center” shall be defined as in T.C.A. §68-11-201,
- (2) “CMS-1500” is defined to be form Centers for Medicare & Medicaid Services 1500. In July 2001, the Health Care Financing Administration (HCFA) became the Centers for Medicare & Medicaid Services (CMS). Prior to this name change, the CMS-1500 form had been known as the HCFA-1500 form.
- (3) “Commissioner” shall mean the commissioner of the Tennessee Department of Health.
- (4) “Department” shall mean the Tennessee Department of Health.
- (5) “Error” is defined as data that are incomplete or inconsistent with the specifications in the Ambulatory Surgical Treatment Center Data System Procedural Manual.
- (6) “Final Joint Annual Report” is defined as the most recent Joint Annual Report filed by an Ambulatory Surgical Treatment Center where the data contained in the report have been edited, queried, and updated when appropriate, by the Department of Health.
- (7) “Outpatient” shall be defined as a person receiving reception and care in an Ambulatory Surgical Treatment Center (ASTC) for a continuous period less than twenty-four (24) hours for the purpose of giving advice, diagnosis, nursing service, or treatment bearing on the physical health of the person, excluding persons receiving maternity care involving labor and delivery.
- (8) “Personal Identifiers” shall be defined to include the following data elements:

- Insured’s ID Number
- Patient’s Name
- Insured’s Name
- Patient’s Address: No., Street
- Patient’s Zip Code (digits 6-9)
- Patient’s Telephone Number
- Insured’s Address: No., Street
- Insured’s Zip Code (digits 6-9)
- Insured’s Telephone Number
- Other Insured’s Name
- Other Insured’s Policy or Group Number
- Insured’s Policy Group or FECA Number
- Patient’s Account No.
- Patient’s Social Security Number

- (9) "Processed Data" is defined as data that have been analyzed by the Department's designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.
- (10) "Public" shall be defined as anyone other than the THA and the Department of Health.
- (11) "THA" shall be defined as the administrative offices and staff of the Tennessee Hospital Association.
- (12) "Verified Data" is defined as data that have been processed by the Department of Health after the health facilities have had the opportunity to suggest corrections, and/or deletions; and all appropriate revisions have been made to the data by the Department of Health.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.02 PURPOSE.

The reporting of ambulatory patient data will provide a statewide-integrated database of ambulatory surgical procedures and certain radiological procedures and permit assessment of variations in utilization, practice parameters, access to ambulatory care and estimates of cost trends for ambulatory procedures.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.03 REPORTING REQUIREMENTS.

- (1) Each licensed Ambulatory Surgical Treatment Center (ASTC) shall report to the Tennessee Department of Health all claims data found on the appropriate form on every patient visit. Claims for discharges reported by ASTCs to the Department under Section 68-3-505 shall not be required.
- (2) Each ASTC shall submit the data through third party entities, hereafter referred to as "vendors", approved by the Department of Health for the purpose of editing the data according to rules and regulations established by the Commissioner.
- (3) The format for reporting the required data elements, and the standards for completeness are defined by the Department in the Ambulatory Surgical Treatment Center Procedural Manual.
- (4) Each ASTC shall be responsible for the costs associated with processing of the data by the approved vendors.
- (5) Each ASTC shall report the claims data at least quarterly to its approved vendor with a separate data set for each facility location.
- (6) Each ASTC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the individual's name, title, work address, work telephone number, and e-mail address.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.04 REQUIRED DATA ELEMENTS.

- (1) The Tennessee Department of Health, Office of Health Statistics and Research (TDH-HSR) will oversee the development of the Ambulatory Surgical Treatment Center Data System (ASTC) Procedural Manual that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department of Health shall make future changes in the Procedural Manual when the Commissioner deems changes to be necessary. The Department will notify reporting entities of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.

- (2) The data set for each reported discharge, regardless of payer, will include, but is not limited to, the following data elements, as listed on form CMS-1500:
 1. Type of Insurance
 - 1a. Insured's ID Number
 2. Patient's Name
 3. Patient's Date of Birth and Sex
 4. Insured's Name
 5. Patient's Address: No., Street
 5. Patient's Address: City, State
 5. Patient's Zip Code
 5. Patient's Telephone Number
 6. Patient Relationship to Insured
 7. Insured's Address: No., Street
 7. Insured's Address: City, State
 7. Insured's Zip Code
 7. Insured's Telephone Number
 8. Patient Status
 9. Other Insured's Name
 - 9a. Other Insured's Policy or Group Number
 - 9b. Other Insured's Date of Birth and Sex
 - 9c. Other Insured's Employer's/School Name
 - 9d. Insurance Plan/Program Name
 - 10a. Patient's Condition Related to Employment
 - 10b. Patient's Condition Related to Auto Accident
 - 10c. Patient's Condition Related to Other Accident
 11. Insured's Policy Group or FECA Number
 - 11a. Insured's Date of Birth and Sex
 - 11b. Insured's Employer's/School Name
 - 11c. Insurance Plan/Program Name
 - 11d. Another Health Benefit Plan
 14. Date of Current Illness/Injury/Pregnancy
 15. First Date of Same/Similar Illness
 16. Dates Patient Unable to Work
 17. Name of Referring Physician or Other Source
 - 17a. ID of Referring Physician
 18. Hospitalization Dates Related to Current Services
 20. Outside Lab & Charges
 21. Diagnosis or Nature of Illness or Injury
 22. Medicaid Resubmission: Code & Original Ref. No.
 23. Prior Authorization Number

24A.	Date(s) of Service
24B.	Place of Service
24C.	Type of Service
24D.	Procedures, Services, or Supplies
24E.	Diagnosis Code
24F.	Charges
24G.	Days or Units
24H.	EPSDT Family Plan
24I.	EMG
24J.	COB
25.	Federal Tax ID Number & Type
26.	Patient's Account No.
27.	Accept Assignment
28.	Total Charge
29.	Amount Paid
30.	Balance Due
32.	Name and Address of Facility Where Services Were Rendered
33.	Physician's, Supplier's Billing Name, Address, Zip Code, & Phone number
33.	PIN number
33.	GRP number

Authority: T.C.A. §§ 4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.05 SCHEDULE OF SUBMISSION.

- (1) All data submitted to the approved vendor by the ASTCs must be in a format and medium approved by the vendor.
- (2) Submission of required data by the ASTCs to their approved vendor shall adhere to the following quarterly schedule:

Quarter	Time Span	Submission Due Date
Q1	January 1 – March 31	May 30
Q2	April 1 – June 30	August 29
Q3	July 1 – September 30	November 29
Q4	October 1 – December 31	March 1

- (3) The approved vendor must receive all required data within 60 days following the close of the quarter.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.06 PENALTY ASSESSMENT.

- (1) Beginning with records due on or before January 1, 2004, the Department of Health will assess a civil penalty of five cents (\$.05) per record per day for delinquent discharge reports. A claims data report is delinquent if the approved vendor does not receive it within sixty (60) days after the end of the quarter.
- (2) If the vendor receives the report in incomplete form, the Commissioner shall notify the ASTC and provide fifteen (15) additional days for the ASTC to correct the error, prior to the imposition of any civil penalty.

- (3) For ASTCs not submitting any discharge reports by the submission deadline, the number of quarterly discharge reports delinquent, for a particular facility per quarter, will be estimated by dividing the number of total discharges or admissions reported in Schedule D-Availability and Utilization of Services of the most current, final Joint Annual Report of Ambulatory Surgical Treatment Centers (JAR-ASTC) on file with the Department of Health for that facility by four (4).
- (4) The Department will allow a 5% error rate on data submitted for discharges occurring before January 1, 2006. For discharges occurring on or after January 1, 2006, the acceptable error rate will be 2%. Records that fall within the acceptable error rate will not be subject to any penalties. Facilities that exceed the acceptable error rate will be penalized based on total errors (not on errors minus 5% or minus 2%).
- (5) The Commissioner shall send notice of an approximate daily assessment of the civil penalty to the delinquent ASTC. The assessment will estimate the approximate penalty per day based on the estimated number of discharge reports. The assessment will state that penalties will begin to accrue on the due date and will accrue until the delinquent discharge reports are received or the maximum penalty is reached. The maximum civil penalty for a delinquent report is ten dollars (\$10) for each discharge record.
- (6) Upon receipt of the penalty assessment, the ASTC has the right to an informal conference with the Commissioner. A written request for an informal conference must be received by the Commissioner within thirty (30) days of the assessment, with a copy being sent to the Director of Health Statistics and Research within the same time frame.
- (7) After the informal conference with the Commissioner, or if no conference is requested, or the time frame for requesting a conference has expired, the Department may proceed to collect the penalty by setting the penalty off against funds owed to the ASTC or by billing the facility for the amount of the penalty. If the facility fails to submit the required amount to the Department within 60 days of the date of the bill, the Department may institute litigation.
- (8) The Commissioner has the authority to delay any penalty for not correcting any particular data element and can grant a waiver from penalties if the failure is due to an act of God or other events of extraordinary circumstances clearly beyond the control of the ASTC. The facility must make a written request for the waiver and the informal conference within the first thirty (30) days following notification of the assessment. The proceedings before the Commissioner involving penalty waivers are not subject to the Uniform Administrative Procedures Act.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.07 VENDOR REQUIREMENTS.

- (1) An applicant desiring to be certified as a statewide data processing vendor shall make written application to the Department of Health, Office of Health Statistics and Research.
- (2) The format for reporting the required codes and the standards for completeness and quality are defined by the Department in the ASTC Procedural Manual. Each record must include the ID number approved by the Department for the reporting ASTC. All records submitted to the Department must be in an electronic or magnetic medium approved by the Department.
- (3) The applicant must demonstrate that it is capable of receiving, and compiling, from ASTCs throughout the State the patient data elements specified in 1200-7-4-.04 (2) of this rule.

- (4) The applicant must demonstrate that it is capable of examining the patient data it receives for accuracy, informing the ASTC submitting the patient data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correcting the patient data as directed by the ASTC and/or the Department.
- (5) The applicant shall affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.
- (6) If an approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its certification as an approved vendor.

Authority: T.C.A. §§ 4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.08 PROCESSING AND VERIFICATION.

- (1) Discharge data reported in an incorrect format or with elements inconsistent with this rule will be considered in error and returned to the reporting entity.
- (2) Discharge data considered in error is subject to the penalties as prescribed in T.C.A. §68-1-119, unless the errors are corrected within fifteen (15) days after the ASTC receives notification of existing errors.
- (3) Each approved vendor shall report quarterly to the Department the reporting status of all facilities utilizing its services. An update to the original report to update the status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department on an as requested basis. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.
- (4) Each approved vendor shall report all data received each quarter, including additions and corrections, to the Department no more than one hundred and twenty (120) days following the close of the quarter. If any facility's data is incomplete or incorrect at that time, the vendor shall contact the Department for a decision on whether the quarterly submission should be delayed to allow for the completion or correction of the data, or if that facility's data should be held for inclusion in the next quarterly submission.
- (5) After all data have been computerized, edited, updated, and determined to be the final corrected set by the Department, each ASTC shall be given the opportunity to review the entire data set relating to their facility prior to the data being released to the public, if they so desire.
- (6) The Ambulatory Surgical Treatment Center shall notify Health Statistics and Research in writing of any errors in the data set. Valid explanations of the errors and documentation including correct data must be provided with the notification. The ASTC shall provide corrected records for the data set.

Authority: T.C.A. §§ 4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.09 DATA AVAILABILITY.

- (1) Within thirty (30) days after all ASTC claims data has been verified and deemed final, the Department shall promptly make the data available to the Tennessee Hospital Association for review and copying.
- (2) No data will be released to the public until the verification process is completed.
- (3) The Commissioner has the authority to delay release of any particular data element(s) if it is determined that the quality or completeness of the information is not acceptable.
- (4) Three types of data files will be made available for release and purchase:
 - (a) Research-use files containing no physician fields/identifiers will be available solely for use by the purchaser; the data may not be given or sold to another entity.
 - (b) General-use files containing reported physician fields/identifiers will be available solely for use by the purchaser; the data may not be given or sold to another entity.
 - (c) Vendor-use files containing reported physician fields/identifiers will be available and may be re-edited and/or resold by the purchaser.
- (5) Fees associated with the data files will be as follows. A higher fee will be charged for data files that contain physician identifiers, and for files that can be re-edited and/or resold by the purchaser. No fee will be charged to an ASTC for its own finalized data.
 - (a) The fee for a research-use file will be \$200.00 per quarter of data.
 - (b) The fee for a general-use file will be \$500.00 per quarter of data.
 - (c) The fee for a vendor-use file will be \$2,500.00 per quarter of data.
 - (d) The fee for a subset of a file will be based on the proportion of records selected plus a processing charge. The processing charge is 10% of the fee for the entire file with a minimum processing charge of \$100.

Authority: T.C.A. §§4-5-202, 4-5-204 and 68-1-119.

1200-7-4-.10 CONFIDENTIAL INFORMATION.

- (1) All information reported to the Commissioner under this part is confidential until processed and verified by the Department.
- (2) In no event may personal identifiers be released to the public nor shall information be made available by either the Department or the THA that reasonably could be expected to reveal the identity of a patient.
- (3) Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. ASTCs may receive information regarding the name of employer for their claims only.
- (4) Neither the Department of Health nor THA shall release information to the public in violation of any other

statutory provisions for confidentiality of health related matters or the providers of health services.

- (5) The Department may use or authorize use of the compiled data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law.

Authority: T.C.A. §§ 4-5-202, 4-5-204 and 68-1-119.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2003. (03-16)

BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of May, 2003.

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

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

SUBSTANCE OF PROPOSED RULES

NEW RULES

CHAPTER 1000-5

REGISTERED NURSE PROFESSIONAL CORPORATIONS AND LIMITED LIABILITY COMPANIES

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1000-5-.01 REGISTERED NURSE PROFESSIONAL CORPORATIONS.

- (1) Except as provided in this rule, Registered Nurse Professional Corporations (R.N.P.C.) shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
- (2) Filings – A R.N.P.C. need not file its Charter or its Annual Statement of Qualifications with the Board.
- (3) Ownership of Stock – With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated Section 48-101-610, only the following may form and own shares of stock in a foreign or domestic R.N.P.C.:
 - (a) Registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7; and/or
 - (b) A general partnership in which all partners are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7; and/or
 - (c) A R.N.P.C. in which all shareholders are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee, or composed of entities which are directly or indirectly owned by such licensed registered nurses; and/or
 - (d) A Registered Nurse Professional Limited Liability Company (R.N.L.L.C.) in which all members are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee or composed of entities which are directly or indirectly owned by such licensed registered nurses; and/or
 - (e) A foreign R.N.P.C. or R.N.L.L.C. in which all shareholders/members are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee or composed of entities which are directly or indirectly owned by such licensed registered nurses.
- (4) Officers and Directors of Registered Nurse Professional Corporations
 - (a) All, except the following officers, must be registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7:
 1. Secretary;
 2. Assistant Secretary;
 3. Treasurer; and
 4. Assistant Treasurer.
 - (b) With respect to members of the Board of Directors, only registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 shall be directors of a R.N.P.C.
- (5) Corporate Practice Limitations

- (a) A nurse shall not enter into an employment, compensation, or other contractual arrangement with a R.N.P.C. that may violate the Standards of Nursing Practice for the Registered Nurse as provided in rule 1000-1-.14, or which gives the R.N.P.C. authority over the decisions routinely made in the practice of nursing.
 - (b) Engaging in, or allowing another nurse incorporator, shareholder, officer, or director, while acting on behalf of the R.N.P.C., to engage in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of Tennessee Code Annotated, Section 63-7-115.
 - (c) Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a R.N.P.C.
 - (d) Nothing in these rules shall be construed as prohibiting a R.N.P.C. from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent judgment by the nurse incorporators, directors, officers, shareholders, employees or contractors of the R.N.P.C. who are practicing nursing as defined by Tennessee Code Annotated § 63-7-103.
 - (e) Nothing in these rules shall be construed as prohibiting a nurse from owning shares of stock in any type of professional corporation other than a R.N.P.C. so long as such ownership interests do not interfere with the exercise of independent judgment by the nurse while practicing nursing as defined by Tennessee Code Annotated § 63-7-103.
- (6) Violation of this rule by any nurse individually or collectively while acting as a R.N.P.C. may subject the nurse(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-7-115.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 63-7-103, 63-7-115, and 63-7-207.

1000-5-.02 REGISTERED NURSE LIMITED LIABILITY COMPANIES.

- (1) Except as provided in this rule Registered Nurse Limited Liability Companies (R.N.L.L.C.) shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 248.
- (2) Filings – Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.
- (3) Membership – With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated, Section 48-248-401 only the following may be members of a foreign or domestic R.N.L.L.C. doing business in Tennessee:
 - (a) Registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7; and/or
 - (b) A general partnership in which all partners are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 and/or

- (c) A R.N.P.C. in which all shareholders are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee or composed of entities which are directly or indirectly owned by such licensed registered nurses; and/or
 - (d) A Registered Nurse Limited Liability Company (R.N.L.L.C.) in which all members are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee or composed of entities which are directly or indirectly owned by such licensed registered nurses; and/or
 - (e) A foreign R.N.P.C. or R.N.L.L.C. in which all shareholders/members are registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 to practice nursing in Tennessee or composed of entities which are directly or indirectly owned by such licensed nurse.
- (4) Managers or Governors of a R.N.L.L.C.
- (a) All, except the following managers, must be registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7:
 - 1. Secretary
 - 2. Treasurer
 - (b) Only registered nurses licensed pursuant to Tennessee Code Annotated Title 63, Chapter 7 shall serve on the Board of Governors of a R.N.L.L.C.
- (5) Practice Limitations
- (a) A nurse shall not enter into an employment, compensation, or other contractual arrangement with a R.N.L.L.C. that may violate the Standards of Nursing Practice for the Registered Nurse as provided in rule 1000-1-.14, or which gives the R.N.L.L.C. authority over the decisions routinely made in the practice of nursing.
 - (b) Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a R.N.L.L.C.
 - (c) Nothing in these rules shall be construed as prohibiting a R.N.L.L.C. from electing to form, for the purposes of rendering professional services within two (2) or more professions, or for any lawful business authorized by the Tennessee Business Corporations Act, so long as those purposes do not interfere with the exercise of independent judgment by the nurse members, governors, officers, employees or contractors of the R.N.L.L.C. who are practicing nursing as defined by Tennessee Code Annotated § 63-7-103.
 - (d) Nothing in these rules shall be construed as prohibiting a nurse from being members of any type of professional limited liability company other than a R.N.L.L.C., so long as such membership interests do not interfere with the exercise of independent judgment by the nurse while practicing nursing as defined by Tennessee Code Annotated Section 63-7-103.

- (e) All R.N.L.L.C.s formed in Tennessee, pursuant to Tennessee Code Annotated Section 48-248-104, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that it is not providing services in Tennessee.
- (6) Violation of this rule by any nurse individually or collectively while acting as a R.N.L.L.C. may subject the nurse(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-7-115.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-7-103, 63-7-115, and 63-7-207.

1000-5-.03 DISSOLUTION OF REGISTERED NURSE PROFESSIONAL CORPORATIONS AND LIMITED LIABILITY COMPANIES.

- (1) The procedure that the Board shall follow to notify the attorney general that a R.N.P.C. or a R.N.L.L.C. has violated or is violating any provision of Title 48 Chapters 101 and/or 248 shall be as follows, but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to T.C.A. §§ 48-101-624 or 48-248-409.
- (2) Service of a written notice of violation by the Board on the registered agent of the R.N.P.C. and/or R.N.L.L.C. or the secretary of state if one of the events described in Tennessee Code Annotated Section 48-208-104 or a violation of the provisions of Tennessee Code Annotated, Title 48, Chapter 248, occurs.
- (3) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
- (4) The notice of violation shall state that the R.N.P.C. and/or R.N.L.L.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
- (5) The notice of violation shall state that, if the Board finds that the R.N.P.C. and/or R.N.L.L.C. is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to the appropriate sections of Tennessee Code Annotated, Title 48.
- (6) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provision of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, but that the R.N.P.C. and/or R.N.L.L.C., through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
- (7) If, after the proceeding, the Board finds that a R.N.P.C. and/or R.N.L.L.C. did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either T.C.A., Sections 48-101-624 (1)-(3) and/or 48-248-409 (1)-(3).
- (8) Violation of this rule by any nurse individually or collectively while acting as a R.N.P.C. or as a R.N.L.L.C. may subject the nurse(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-7-115.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-624, 48-248-409, and 63-7-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 6th day of March, 2003. (03-02)

BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of an amendment to rules, new rules, and repeal of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of May, 2003.

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

Chapter 1000-4, Nurse Practitioners, is amended by deleting the title “Nurse Practitioners” in its entirety and substituting instead the title “Advanced Practice Nurses & Certificates of Fitness to Prescribe.”

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207.

NEW RULES

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1000-4-.01 PURPOSE AND SCOPE

- (1) Tennessee Code Annotated § 63-7-126 requires a process for nurse practitioners, nurse anesthetists, nurse midwives, and clinical nurse specialists meeting certain qualifications to apply to the Board of Nursing for a certificate to practice as an advanced practice nurse including authorization to use the title “advanced practice nurse” or the abbreviation “APN.” These rules implement this process and set forth the requirements for a registered nurse to hold himself/herself out as an advanced practice nurse.
- (2) Certification by the Tennessee Board of Nursing as an advanced practice nurse shall authorize such person to represent him/herself as an advanced practice nurse under the appropriate category of nurse practitioner, nurse anesthetist, nurse midwife or clinical nurse specialist.
- (3) The Nurse Practice Act, T.C.A. §§ 63-7-101, et seq., requires a certification process for a nurse practitioner to prescribe and/or issue legend drugs. These rules implement this certification process only and set forth the requirements a nurse must meet for certification as a nurse practitioner who prescribes and/or issues legend drugs.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207.

1000-4-.02 DEFINITIONS

- (1) Advanced Practice Nurse (APN) - means a Tennessee licensed registered nurse who has a master’s degree or higher in a nursing specialty and has national specialty certification as a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist. The four (4) recognized categories for advanced practice nurses are Clinical Nurse Specialist, Nurse Anesthetist, Nurse Midwife, and Nurse Practitioner.
- (2) Clinical Nurse Specialist - means a Tennessee licensed registered nurse who has a master’s degree or higher in a nursing specialty and has national specialty certification as a clinical nurse specialist.
- (3) Nurse Anesthetist - means a Tennessee licensed registered nurse who has a master’s degree or higher and has national specialty certification as a certified registered nurse anesthetist.
- (4) Nurse Midwife - means a Tennessee licensed registered nurse who has a master’s degree or higher in a nursing specialty and has national specialty certification as a certified nurse midwife.
- (5) Nurse Practitioner - means a Tennessee licensed registered nurse with a master’s degree or higher in a nursing specialty and has national specialty certification as a nurse practitioner.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207.

1000-4-.03 Qualifications. To be issued a certificate as an advanced practice nurse with privileges to hold oneself out as an advanced practice nurse (APN), the applicant must meet all of the following requirements:

- (1) A current, unencumbered license as a registered nurse under T.C.A. Title 63, Chapter 7;
- (2) Preparation in advanced practice nursing at the master’s, post-master’s, doctoral, or post-doctoral level. Said advanced practice education must include at least three (3) quarter hours of pharmacology instruction or its equivalent;

- (3) A current national specialty certification in the appropriate nursing specialty area; and
- (4) Graduation from a program conferring a master's or doctoral degree in nursing.
- (5) Exemption From The Requirement of Graduation From A Program Conferring A Master's Or Doctoral Degree In Nursing on or before July 1, 2005 – A registered nurse, applying for a certificate as an advanced practice nurse on or before July 1, 2005, is exempt from paragraph (4)'s requirement to graduate from a program conferring a master's or doctoral degree in nursing if the following criteria are met at the time of application:
 - (a) Is a nurse practitioner who holds a certificate of fitness to prescribe issued by the Tennessee Board of Nursing; or
 - (b) Is a nurse anesthetist who has graduated from a nurse anesthetist educational program approved by the American Association of Nurse Anesthetists (AANA) Council on Accreditation of Nurse Anesthesia Educational Programs or its predecessor; or
 - (c) Is a nurse midwife who holds a certificate of fitness to prescribe issued by the Tennessee Board of Nursing; or
 - (d) Is a clinical nurse specialist who holds a certificate of fitness to prescribe issued by the Tennessee Board of Nursing.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207.

1000-4-.04 CERTIFICATE OF FITNESS

- (1) Certification by the Tennessee Board of Nursing to prescribe and/or issue legend drugs, pursuant to T.C.A. § 63-7-123, shall authorize a nurse practitioner to prescribe and/or issue such drugs. Any nurse who prescribes and/or issues drugs without proper certification by the Tennessee Board of Nursing shall be subject to disciplinary action by the Board of Nursing in accordance with the provisions of T.C.A. § 63-7-115.
- (2) In order to be issued a certificate of fitness as a nurse practitioner with privileges to write and sign prescriptions and/or issue legend drugs, a nurse must meet all of the following requirements:
 - (a) A current, unencumbered license as a registered nurse under T.C.A. Title 63, Chapter 7;
 - (b) Preparation in specialized practitioner skills at the master's, post-master's, doctoral, or post-doctoral level, including, but not limited to, at least three (3) quarter hours of pharmacology instruction or its equivalent;
 - (c) A current national certification in the appropriate nursing specialty area; and
 - (d) Graduation from a program conferring a master's or doctoral degree in nursing.
- (3) Those applicants intending to prescribe, issue or administer controlled substances pursuant to T.C.A. § 63-7-123(b)(2) shall maintain their Drug Enforcement Administration Certificate to Prescribe Controlled Substances at their practice location to be inspected by the Board or its authorized representative.

- (4) A nurse who has been issued a certificate of fitness shall file a notice with the Board of Nursing containing:
 - (a) The nurse's full name;
 - (b) a copy of the formulary describing the categories of legend drugs to be prescribed and/or issued by the nurse; and
 - (c) the name of the licensed physician having supervision, control and responsibility for prescriptive services rendered by the nurse.
- (5) Every nurse who has been issued a certificate of fitness shall be responsible for updating the information submitted pursuant to paragraph (4) within thirty (30) days of the change.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, and 63-7-207.

1000-4-.05 TEMPORARY CERTIFICATE OF FITNESS. A temporary permit may be issued to graduates of nurse practitioner programs to prescribe and/or issue drugs until the results of the national certification examination are received.

- (1) A nurse who has applied to take a national certification examination following graduation from a nurse practitioner program may be eligible for a temporary permit to prescribe and/or issue drugs upon submission of evidence of all of the following:
 - (a) A current, unencumbered license as a registered nurse under T.C.A. Title 63, Chapter 7;
 - (b) A transcript documenting graduation from a program conferring a master's degree in specialized practitioner skills which includes three (3) quarter hours of pharmacology or its equivalent; and
 - (c) Evidence from the national certifying agency of acceptance to write the next scheduled national certification examination for which he/she is qualified as a first-time examinee and/or is awaiting results as a first-time examinee in the appropriate nursing specialty area through a national certifying body.
- (2) An applicant who does not write or fails to pass the national certifying examination at the next scheduled examination date for which he/she qualifies shall return the permit to the Board. The permit will no longer be valid in this instance.
- (3) The temporary certificate of fitness may be issued one (1) time only and is valid until the results of the certification examination are received.
- (4) The holder of a temporary certificate of fitness to prescribe and/or issue drugs who has not received the results of the national certification examination shall work only under the supervision of a licensed registered nurse who holds a certificate of fitness to prescribe or a physician.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, and 63-7-207.

1000-4-.06 FEES

(1) Type	Amount
(a) Application for Advanced Practice Nurse Certificate (includes fee for Certificate of Fitness to Prescribe). If a Certificate of Fitness to Prescribe has previously been obtained by the applicant (including payment of the applicable fee), this application fee shall be waived.	\$200.00
(b) Advanced Practice Nurse Certificate Renewal Certificate Renewal (biennial) (requires current national specialty certification)	\$100.00
(c) State Regulatory Fee (biennial)	\$ 10.00

(2) Fees may be paid in the following manner:

- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board’s Administrative Office and made payable to the Tennessee Board of Nursing.
- (b) Fees may be paid by credit cards approved by the Division of Health Related Boards or other Division-approved electronic methods.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-7-114, 63-7-123, 63-7-126, and 63-7-207.

1000-4-.07 PROCESSING OF APPLICATIONS. A nurse seeking certification under these rules to practice as an advanced practice nurse with or without privileges to write and sign prescriptions and/or issue legend drugs shall request an application from the Tennessee Board of Nursing or shall download an application from the Internet, and subsequently submit the application to the Board along with the documentation required by Rule .03 and the applicable fee(s) as required by Rule .06. After review, the Board shall notify the applicant, in writing, sent to the address furnished in the application, the following information, as applicable:

- (1) That the application is incomplete or more information is required.
- (2) That the application is denied (including the reasons for denial).
- (3) That the application is approved and a certificate of fitness with an identifying number has been forwarded to the Director of the Division of Health Related Boards to be filed and recorded.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207.

REPEALS

1000-4-.01, Purpose and Scope, is repealed.
1000-4-.02, Processing of Applications, is repealed.
1000-4-.03, Qualifications for Recommendations, is repealed.
1000-4-.04, Temporary Certificate of Fitness, is repealed.
1000-4-.05, Repealed, is repealed.

Authority: T.C.A. §§4-5-202, 4-5-204, and 63-7-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 6th day of March, 2003.
(03-03)

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules, new rules and repeal of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th day of May, 2003.

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 1020-1-.01, Definitions, is amended by deleting paragraphs (1) and (14) in their entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103.

Rule 1020-1-.04, Approval of Programs of Study, 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) The program of study includes courses in all the Domains of Practice or their equivalent, including but not limited to:
1. Resident Care Management
 2. Personnel Management
 3. Financial Management
 4. Environmental Management
 5. Regulatory Management
 6. Organizational Management

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, and 63-16-109.

Rule 1020-1-.06, Preceptors, Administrator-In-Training and Administrator-In-Training Programs, is amended by deleting the introductory language in its entirety and substituting instead the following language, so that as amended the new introductory language shall read:

1020-1-.06 PRECEPTORS, ADMINISTRATOR-IN-TRAINING AND ADMINISTRATOR-IN-TRAINING PROGRAMS. A person who intends to qualify for admission to the licensure examination by use of an A.I.T. program must first receive approval to begin the program by complying with rules 1020-1-.07 and 1020-1-.08, and successfully complete the program in a Board approved facility under the coordination, supervision and teaching of a Preceptor who has obtained certification from the Board pursuant to, and continues to meet the qualifications of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, and 63-16-104.

Rule 1020-1-.09, Application Review, Approval, Denial, and Interviews, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, and is further amended by adding the following language as paragraph (2) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (1) and (2) shall read:

- (1) Upon receipt of an incomplete application, the Board Administrative Office shall notify the applicant of the information required. The applicant shall submit the requested information to the Board Administrative Office on or before the forty-fifth (45th) day after the notification is sent. If the requested information is not received by the Board Administrator within the forty-five (45) days, the application file shall be closed and the applicant notified that the Board will not take further action regarding the application. In order to resume the application process, a new application must be received, including another payment of all fees.

- (2) Completed applications received in the Board Administrative Office may be submitted to a Board member or a Board designee for review. An initial determination to allow practice to commence may be made prior to the next Board meeting after the application is received. Each member of the Board and the Board's designee is vested with the authority to make these initial determinations.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-142, 63-16-103, and 63-16-104.

Rule 1020-1-.10, Examinations, is amended by deleting parts (1) (a) 1. and (1) (a) 3. in their entirety and substituting instead the following language, so that as amended, the new parts (1) (a) 1. and (1) (a) 3. shall read:

- (1) (a) 1. Fully comply with rules 1020-1-.07 and 1020-1-.08;
- (1) (a) 3. Failure to comply with rules 1020-1-.07 and 1020-1-.08 within one (1) calendar year of the date on which the application is received by the Board Administrator shall cause the application to be closed as incomplete unless prior written authorization for an extended period has been issued by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, and 63-16-105.

Rule 1020-1-.11, Licensure Renewal, is amended by deleting paragraph (5) but not its subparagraphs and substituting instead the following language, so that as amended, the new paragraph (5) but not its subparagraphs shall read:

- (5) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due must, in addition to completing the requirements of paragraph (4) of this rule, reapply for, take and pass the nursing home administration examinations pursuant to rule 1020-1-.10. If continuously and actively practicing in another state as a licensed nursing home administrator, reinstatement may be accomplished upon meeting the following conditions:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-107, and 63-16-109.

NEW RULES

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1020-1-.05 Temporary Licenses

1020-1-.08 Procedures for Licensure

1020-1-.07 Qualifications for Licensure

1020-1-.05 TEMPORARY LICENSES. The Board may issue temporary licenses under limited circumstances pursuant to T.C.A. § 63-16-104(b).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, and 63-16-104.

1020-1-.07 QUALIFICATIONS FOR LICENSURE. To practice as a nursing home administrator in Tennessee, a person must possess a lawfully issued license from the Board. Paragraphs (2) through (8) of this rule describe the seven (7) ways to obtain licensure as a nursing home administrator. Requirements from a category combined with requirements from another category are not permitted and will not constitute completion of licensure requirements. In addition to the requirements of this rule all applicants, regardless of which category is used, must successfully complete the examinations required in rule 1020-1-.10 Examinations.

- (1) “Acceptable Management Experience,” as used in this rule, means the actual practice of health care facility administration in an inpatient health care facility with guidance and sharing of responsibility from the administrator and not related to the role of an administrative clerk. “Acceptable management experience” contemplates experience in all departments or areas of the facility, provided however, that this term is not to be construed to require that the applicant have spent the entire number of years of “acceptable management experience” referred to in paragraphs (6) and (7) of this rule in the capacity of an assistant administrator. Responsible supervisory experience in various departments within the facility may be applied to meet the requirements of paragraphs (6) and (7) of this rule, and the time spent in a board approved Administrator-In-Training (A.I.T.) program may also be counted toward these requirements. However, no more than two-thirds (2/3) of the required “acceptable management experience” can be obtained in any one area of the facility, e.g., in dietary, nursing, financial, etc.
- (2) Licensure by examination – A baccalaureate, masters, or doctorate degree in the area of Long Term Health Care Administration from an accredited college or university is required. The curriculum shall include a four hundred (400) hour internship taken for credit and served in a licensed long term care nursing facility.
- (3) Licensure by experience as a hospital administrator – A minimum of five (5) of the last seven (7) years as the chief executive officer of a licensed hospital is required. This individual is appointed by the governing authority and is responsible to it for the executive management of the organization according to the mission, goals and objectives that have been adopted.
 - (a) The administrator must develop an organizational structure to provide the patient care services that are offered by the facility which is consistent with the mission and meets all applicable legal, licensure and accreditation requirements; assure that appropriate mechanisms are in place for an organized medical staff and (if applicable) a volunteer organization; also oversee long range planning and possible even joint ventures. The individual must work with community, county and state governmental agencies on a wide variety of topics.
 - (b) In a multi-hospital organization, the chief executive officer may be directly responsible to a corporate official and may have a local advisory board or other consultative group.
- (4) Licensure by experience as an assistant/associate hospital administrator – A minimum of five (5) of the last seven (7) years as the chief operating officer of a licensed hospital is required. This individual is appointed by the chief executive officer, usually with the concurrence of the governing authority.
 - (a) The assistant/associate administrator is directly responsible for the operation of several hospital departments and assists the administrator, as assigned, in other executive management functions. The individual must work with community, county and state governments on a wide variety of topics.
 - (b) The assistant/associate administrator is “in charge” of the facility during the absence of the administrator and must follow its mission, goals and objectives that have been adopted.

- (5) Licensure by education combined with an Administrator-In-Training (A.I.T.) program – A baccalaureate, masters or doctorate degree from an accredited college combined with a Board approved six (6) month A.I.T. program is required.
- (6) Licensure by education and experience combined with an Administrator-In-Training (A.I.T.) program – An associate degree and three (3) years of acceptable management experience in a licensed long term care facility combined with a Board approved six (6) month A.I.T. program is required.
- (7) Licensure by experience combined with continuing education and an Administrator-In-Training (A.I.T.) program – Five (5) years of acceptable management experience combined with a Board approved six (6) month A.I.T. program and fifty (50) clock hours of Board approved continuing education in nursing home administration is required.
 - (a) The fifty (50) clock hours of continuing education shall be a prerequisite to the A.I.T. program.
 - (b) The fifty (50) clock hours of continuing education must have been presented in the traditional “lecture / classroom” format. Courses that use any of the presentation methods in part (3) (c) 1. of Rule 1020-1-.12 shall not be allowed.
 - (c) The fifty (50) clock hours of continuing education must have begun within twenty-four (24) months immediately prior to approval of the A.I.T. Program.
- (8) Licensure by reciprocity – An active license as a nursing home administrator in another state is required.
 - (a) This individual must demonstrate to the Board’s satisfaction that he/she has successfully completed requirements which are substantially equivalent to or exceed the requirements of paragraphs (2), (3), (4), (5), (6), or (7) of this rule; or
 - (b) This individual must demonstrate to the Board’s satisfaction that he/she has successfully completed requirements which are substantially equivalent to or exceed the requirements for certification by the American College for Health Care Administrators.
- (9) An applicant who chooses to qualify for licensure by meeting the requirements of paragraphs (5), (6), or (7) of this rule must obtain Board approval to begin the A.I.T. program.
 - (a) Successful completion of the A.I.T. program as governed by rule 1020-1-.06 is a prerequisite to approval to take the licensure examination.
 - (b) The time an applicant spends in the A.I.T. program may be credited toward the last six (6) months needed to meet the “acceptable management experience” requirement for admission to the examination.
 - (c) The Board shall concurrently determine eligibility for both admission to the examination and commencement of the A.I.T. program upon review of both applications.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-106, and 63-16-109.

1020-1-.08 PROCEDURES FOR LICENSURE.

- (1) An applicant shall obtain an examination or an A.I.T. program application from the Board Administrative Office or from the Board's Internet website (www.tennesseeanytime.org), and respond truthfully and completely to every question. The applicant is responsible for obtaining and submitting the required documentation, or causing it to be submitted, to the Board Administrative Office.
- (2) An applicant must submit the application along with the non-refundable application, jurisprudence examination and state regulatory fees as provided in rule 1020-1-.02.
- (3) Unless the applicant is applying for licensure as provided in paragraphs (2), (5) or (6) of Rule 1020-1-.07, an applicant must submit proof of graduation from high school or its equivalent.
- (4) An applicant must submit a signed "passport style" photograph taken within the last twelve (12) months. Photocopies are not accepted.
- (5) An applicant must submit two (2) original reference letters attesting to the applicant's good moral character on the signature's professional letterhead. Photocopies are not accepted.
- (6) An applicant shall submit proof of United States citizenship or evidence of being legally entitled to live in the United States. Such evidence may include a notarized copy of a birth certificate, or naturalization papers, or current visa status.
- (7) If the applicant is applying for licensure as provided in paragraphs (2), (5) or (6) of Rule 1020-1-.07, the applicant shall cause a transcript to be sent directly to the Board Administrative Office from the educational institution that awarded the degree. Transcripts that state "issued to student" will not be accepted.
- (8) If the applicant is applying for licensure as provided in paragraphs (3), (6) or (7) of Rule 1020-1-.07, a resume must be submitted with the application. The resume must state the dates of employment, name of facility, job title and job duties.
- (9) If the applicant is applying for licensure by reciprocity, as provided in paragraph (8) of rule 1020-1-.07, he/she must submit directly to the Board Administrative Office from each state licensing board from which licensure has ever been issued which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive. An active license as a nursing home administrator in another state is required for licensure by reciprocity.
- (10) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any other state.
 - (c) Failure of any licensure examination.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-106, and 63-16-109.

REPEALS

Rule 1020-1-.05 Licensure, is repealed.

Rule 1020-1-.07 Temporary Licenses, is repealed.

Rule 1020-1-.08 Reciprocity Licensure Process, is repealed.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of March, 2003. (03-01)

THE TENNESSEE PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION - 1175

There will be a hearing before the Tennessee Private Investigation and Polygraph Commission to consider the promulgation of amendments to rules and pursuant to T.C.A. §§ 62-26-303 and 62-27-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. (CST) on the 30th day of May, 2003.

Any individuals with disabilities who wish to participate in these proceedings (or 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, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243, at (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Donna Hancock, Executive Director, Tennessee Private Investigation and Polygraph Commission, 500 James Robertson Parkway, 2nd Floor, Nashville, Tennessee 37243, telephone (615) 532-9160.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1175-1
PRIVATE INVESTIGATION COMMISSION****AMENDMENTS**

The title of Chapter 1175-1 Private Investigation Commission is amended by deleting the language "Private Investigation Commission" and substituting instead the language "Private Investigation and Polygraph Commission".

Authority: T.C.A. §62-26-303.

Chapter 1175-1 Private Investigation Commission is amended by deleting the abbreviation “T.C.A.” and the words “Tennessee Code Annotated” wherever they appear and substituting instead the abbreviation “T.C.A.”.

Authority: T.C.A. §62-26-303.

Rule 1175-1-.03 Finger Printing is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

1175-1-.03 FINGER PRINTING.

- (1) An applicant shall furnish the Commission with three (3) sets of classifiable finger prints with his or her application for the purpose of allowing the Commission to forward the fingerprints to the Tennessee Bureau of Investigation as required by T.C.A. §§62-26-205 and 62-26-208. An applicant shall be deemed to have furnished the Commission with three (3) sets of classifiable finger prints if he or she causes a private company approved by the Commission to electronically transmit the applicant’s classifiable fingerprints directly to the Tennessee Bureau of Investigation and forward a classifiable hard copy of the applicant’s fingerprints to the Commission. The Commission shall notify each applicant in writing of the name, address, and telephone number of any company approved by the Commission to provide such service. An applicant shall comply with the following requirements regarding the payment of the fingerprinting service:
 - (a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant. In the event an applicant chooses to send classifiable fingerprints directly to the Commission, the Commission shall pay The Tennessee Bureau of Investigations and the Federal Bureau of Investigation processing fees as required by the respective agencies. The Commission shall not be responsible for paying processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation should the applicant choose to cause a private company to electronically transmit his or her fingerprints to the respective law enforcement agencies.
 - (b) An applicant shall be responsible for paying fees required by a private company that transmits fingerprints on behalf of the applicant. In the event an applicant chooses to have a private company transmit his or her fingerprints to the Tennessee Bureau of Investigation and the Federal Bureau of Investigation, the applicant shall be responsible for paying any fees associated with processing such fingerprints to the respective agency. An applicant may make arrangements for the private company to pay processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation on his or her behalf.
 - (c) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the Commission or the Tennessee Bureau of Investigation, then the Commission may refuse to issue the requested license. For the purposes of this rule, “unclassifiable” means that the electronic scan or the print of the person’s fingerprints cannot be read and therefore, cannot be used to identify the person.

Authority: T.C.A. §§62-26-205, 62-26-208 and 62-26-303.

Rule 1175-1-.05 Change of Company Affiliation and Change of Address is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

1175-1-.05 CHANGE OF COMPANY AFFILIATION AND CHANGE OF ADDRESS.

- (1) A licensee or an applicant shall notify the Commission in writing within thirty (30) days of any change in his or her home address.
- (2) A licensee or an applicant shall notify the Commission in writing within thirty (30) days of any change in company affiliation.

Authority: T.C.A. §§62-26-213 and 62-26-303.

Rule 1175-1-.11 License Fees is amended by adding the following language as a new paragraph (2) immediately following paragraph (1):

- (2) The fee for a duplicate license is twenty-five dollars (\$25.00).

Authority: T.C.A. §§62-26-208 and 62-26-303.

Paragraph (1) of rule 1175-1-.15 Civil Penalties is amended by deleting the text of the paragraph in its entirety and substituting the following language so that, as amended, paragraph (1) shall read:

- (1) With respect to any person, partnership, firm, association, or corporation or entity required to be licensed by the Commission, the Commission may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such person, partnership, firm, association, corporation or entity for each separate violation of a statute, rule or order pertaining to the Commission in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. §62-26-217(a)(1)	\$1 - \$2,000
(b) T.C.A. §62-26-217(a)(2)	\$1 - \$2,000
(c) T.C.A. §62-26-217(a)(3)	\$1 - \$2,000
(d) T.C.A. §62-26-217(a)(4)	\$1 - \$2,000
(e) T.C.A. §62-26-217(a)(5)	\$1 - \$2,000

Authority: T.C.A. §§56-1-308, 62-26-217 and 62-26-303.

**CHAPTER 1175-2
CONTINUING PROFESSIONAL EDUCATION
AMENDMENTS**

Chapter 1175-2 Continuing Professional Education is amended by deleting the abbreviation “T.C.A.” and the words “Tennessee Code Annotated” wherever they appear and substituting instead the abbreviation “T.C.A.”.

Authority: T.C.A. §62-26-303.

Subparagraph (a) of paragraph (1) of rule 1175-2-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting the following language so that, as amended, subparagraph (a) of paragraph (1) shall read:

- (a) “Commission” shall mean the “Tennessee Private Investigation and Polygraph Commission”.

Authority: T.C.A. §§62-26-202 and 62-26-303.

CHAPTER 1175-3 PRIVATE INVESTIGATOR TRAINING

AMENDMENTS

Chapter 1175-3 Private Investigator Training is amended by deleting the abbreviation “T.C.A.” and the words “Tennessee Code Annotated” and substituting instead the abbreviation “T.C.A.”.

Authority: T.C.A. §62-26-303.

Subparagraph (a) of paragraph (1) of rule 1175-3-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting the following language so that, as amended, subparagraph (a) of paragraph (1) shall read:

- (a) “Commission” shall mean the Tennessee Private Investigation and Polygraph Commission.

Authority: T.C.A. §§62-26-202 and 62-26-303.

Subparagraph (c) of paragraph (1) of rule 1175-3-.05 Certified Training Company Applicants - Requirements is amended by deleting the text of the subparagraph in its entirety and substituting the following language so that, as amended, subparagraph (c) of paragraph (1) shall read:

- (c) certification that the applicant or the designee thereof has read and is familiar with the Private Investigators Licensing and Regulatory Act, T.C.A. §§62-26-201 et seq. and the Rules of the Tennessee Private Investigation and Polygraph Commission.

Authority: T.C.A. §§62-26-226 and 62-26-303.

CHAPTER 1175-4 RULES OF PROFESSIONAL CONDUCT AND STANDARDS OF PRACTICE

AMENDMENTS

Chapter 1175-4 Rules of Professional Conduct and Standards of Practice is amended by deleting the abbreviation “T.C.A.” and the words “Tennessee Code Annotated” and substituting instead the abbreviation “T.C.A.”.

Authority: T.C.A. §62-26-303.

Paragraph (2) of rule 1175-4-.02 Proper Conduct of Practice is amended by deleting the text of the paragraph in its entirety and substituting the following language so that, as amended, paragraph (2) shall read:

- (2) A licensee possessing knowledge of a violation of T.C.A. Title 62, Chapter 26, or any rules promulgated thereunder, should report such knowledge to the Tennessee Private Investigation and Polygraph Commission in writing and should cooperate with the Commission in furnishing such further information or assistance as it may require.

Authority: T.C.A. §62-26-303.

Subparagraph (b) of paragraph (2) of rule 1175-4-.07 Confidential Client Information is amended by deleting the text of the subparagraph in its entirety and substituting the following language so that, as amended, subparagraph (b) of paragraph (2) shall read:

- (b) prohibit review of a licensee’s professional practice by the Tennessee Private Investigation and Polygraph Commission.

Authority: T.C.A. §§62-26-221 and 62-26-303.

CHAPTER 1160-1 ADMINISTRATION AND ENFORCEMENT

AMENDMENTS

Chapter 1160-1 Administration and Enforcement is amended by deleting the abbreviation “T.C.A.” and the words “Tennessee Code Annotated” wherever they appear and substituting instead the abbreviation “T.C.A.”.

Authority: T.C.A. §62-27-105.

Chapter 1160-1 Administration and Enforcement is amended by deleting the word “Board” wherever it appears and substituting instead the word “Commission”.

Authority: T.C.A. §62-27-105.

Rule 1160-1-.01 Definitions is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

1160-1-.01 DEFINITIONS.

As used in this chapter, unless the context requires otherwise, the term “Commission”, “Internship”, “Intern Sponsor”, “Person”, and “Polygraph Examiner” shall be defined as in T.C.A. §62-27-102.

Authority: T.C.A. §§62-27-102 and 62-27-105.

Rule 1160-1-.02 Applications is amended by deleting the word “Secretary” wherever it appears and substituting instead the word “Commission”.

Authority: T.C.A. §§62-27-105 and 62-27-108.

Rule 1160-1-.06 Professional Standards is amended by deleting the words “Tennessee Board of Polygraph” wherever they appear and substituting the words “Tennessee Private Investigation and Polygraph Commission”.

Authority: T.C.A. §62-27-105.

Rule 1160-1-.08 Fees for Licenses is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

1160-1-.08 FEES FOR LICENSES.

- (1) The Commission shall charge a fee of one hundred dollars (\$100.00) for examinations. Such examinations are for the purpose of determining the fitness of a licensee to perform the functions of a licensee established in T.C.A. Title 62, Chapter 27. The Commission shall not issue a license until such fee is paid. Such fee may not be credited as payment against the license fee.
- (2) The fee to be paid for an original polygraph examiner’s license is one hundred and fifty dollars (\$150.00).
- (3) The fee to be paid for an internship permit or certificate is one hundred dollars (\$100.00).
- (4) The fee to be paid for the issuance of a duplicate polygraph examiner’s license is twenty-five dollars (\$25.00).
- (5) The fee to be paid for a polygraph examiner’s renewal license is one hundred dollars (\$100.00).
- (6) The fee to be for the extension of an internship permit or certificate is one hundred dollars (\$100.00).
- (7) The fee to be paid for a duplicate internship permit or certificate is twenty-five dollars (\$25.00).
- (8) The fee to be paid for a company license and renewal of such company license is five hundred dollars (\$500.00).
- (9) Licenses shall be subject to late renewal for a period of six (6) months following their expiration date by payment of the renewal fee plus a penalty of one hundred dollars (\$100.00) for each month, or portion thereof, which elapses before payment is tendered.

Authority: T.C.A. §§62-27-105, 62-27-107, 62-27-108, 62-27-111, 62-27-112 and 62-27-115.

**CHAPTER 1160-2
CONTINUING EDUCATION**

AMENDMENTS

Chapter 1160-2 Continuing Education is amended by deleting the abbreviation "T.C.A." and the words "Tennessee Code Annotated wherever they appear and substituting instead the abbreviation "T.C.A.".

Authority: T.C.A. §62-27-105.

Chapter 1160-2 Continuing Education is amended by deleting the word "Board" wherever it appears and substituting instead the words "Tennessee Private Investigation and Polygraph Commission".

Authority: T.C.A. §62-27-105.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2003. (03-18)

THE 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 the Region II Conference Room of the Tennessee Wildlife Resources Agency, Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, commencing at 9:00 A.M, local time, on the 29th day of May, 2003.

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**NEW RULES****RULES
OF
TENNESSEE WILDLIFE RESOURCES AGENCY****WILDLIFE RESOURCES****CHAPTER 1660-1-20
RULES AND REGULATIONS GOVERNING THE
DEER MANAGEMENT ASSISTANCE PROGRAM (DMAP)****TABLE OF CONTENTS**

1660-1-20-.01 General Provisions

1660-1-20-.01 GENERAL PROVISIONS

(1) Purpose

The purpose of the DMAP program is to permit landowners, adjoining landowners, or persons who control hunting access on contiguous lands to achieve deer management goals on the contiguous land through management for the specific needs of deer that may at any point in time cross over the land.

(2) Eligibility

- (a) Landowners or persons who control hunting access to at least 1,000 contiguous huntable acres in the State of Tennessee.
- (b) A yearly deer management assistance permit fee of \$1,000 will be required to participate in the DMAP program. A reduced fee of \$350 will be assessed if the DMAP participant contracts the development of a management plan with a wildlife biologist not employed with the Tennessee Wildlife Resources Agency (TWRA).
- (c) Private wildlife biologists must possess a Bachelor's degree in wildlife management or a closely related field and experience equivalent to at least three years of professional wildlife work, or a Master's degree in wildlife management or a closely related field and experience equivalent to at least one year of professional wildlife work.

(3) DMAP Application

- (a) Those wishing to participate in DMAP must submit a completed DMAP permit application form to the TWRA by a date as determined by the TWRA.

- (b) The DMAP permit application form will be provided by TWRA, and must include a complete listing of the names and addresses of landowners who own lands within the boundaries of the proposed DMAP area, as well as the map and parcel numbers for all tracts included in the DMAP area. The application must also include the names and addresses of all individuals who will be eligible to hunt under the program. The application must also specify a Group Leader, who will be responsible for all agreement negotiations with TWRA. A statement of the applicant's deer management goals must also be included on the application. A topographic or aerial map of the property with boundaries marked on the map must accompany the application along with a description of the property location. The applicant must also submit a statement signed by the landowners that the DMAP Applicant has hunting rights on the proposed DMAP property. The application must be signed by the Group Leader and include the leader's address and telephone number. The DMAP permit fee must also accompany the application. If the applicant chooses to contract with a private wildlife biologist, the name of the biologist and his/her company must be included on the application. Other information may be required on the DMAP permit application as needed.
- (4) Agreement
- (a) A TWRA biologist will contact and schedule a meeting with the DMAP Group Leader prior to July 1, or, if circumstances dictate, this date may be extended as determined by TWRA. At this meeting the Group Leader will discuss his/her deer management goals with the biologist. The biologist will discuss appropriate habitat and population management strategies to achieve the desired goals. If the participant agrees with these strategies, the Group Leader will sign an agreement with TWRA stating that the DMAP participant will abide by the terms and conditions of both the agreement and the management plan developed by the biologist. After the agreement is signed by the Group Leader, the DMAP permit fee is non-refundable. If the DMAP participant chooses to contract with a private wildlife biologist, the deer management plan developed by the private biologist must be submitted to TWRA for approval or be post-marked by July 1.
 - (b) Management plans developed by private wildlife biologists must be approved by TWRA before an agreement may be signed. If the plan developed by the private wildlife biologist is determined to be unacceptable by TWRA, and mutual revision of the plan cannot be agreed upon, the participant is denied entry into the DMAP.
- (5) Permit Issuance
- (a) A population management plan with harvest recommendations may be completed by the Agency biologist as soon as the biologist obtains appropriate information, specifically deer harvest and observational data, which will be used to formulate recommendations. Harvest recommendations concerning the antlerless segment of the deer herd cannot be established until analysis of the appropriate data. DMAP Antlerless Quota Hunt Permits cannot be issued to the DMAP hunters until the appropriate data is collected for at least one year. If the DMAP permittee has accurate data, including the harvest for the previous deer hunting season, the biologist may make specific antlerless harvest recommendations during the first year of the program.

- (b) TWRA will establish an antlerless harvest quota for the property. All antlerless deer harvested on the property by DMAP hunt participants and other hunters during the muzzleloader and gun seasons will count toward the quota.
 - (c) Each DMAP hunter specified on the DMAP Permit application form submitted by the Group Leader must purchase in his or her name, and possess while hunting, a DMAP Antlerless Quota Hunt Permit. The DMAP Permit application must be received by the TWRA Quota Hunts Section or be postmarked by October 1, and must include the names, addresses, and TWRA license identification numbers and all other requested information of all hunt participants, along with payments for each hunt participant's DMAP Antlerless Quota Hunt Permit. Payments will not be required for those hunters possessing a valid Annual or Lifetime Sportsmen's License or an Annual Senior Citizen Permit. Permits will be valid for hunting antlerless deer anytime during the deer muzzleloader and gun seasons. Individual permits will be valid for any number of antlerless deer not to exceed the number of remaining antlerless deer needed to reach the DMAP participant quota. When the quota for a DMAP property is reached, all DMAP Antlerless Quota Hunt Permits shall be considered null and void.
 - (d) The Group Leader must report to each hunter the antlerless harvest quota status immediately before start of the muzzleloader and gun seasons. Additionally, the Group Leader must inform TWRA and the hunters immediately when the antlerless harvest quota has been reached. Each DMAP Group Leader will be issued an allotment of deer kill tags to facilitate record keeping and account for each deer harvested on the property. All kill tags (blank and completed) must be kept in a central location that may be accessed at anytime by TWRA officials. The Group Leader will be responsible for all kill tags issued and must return all tags to TWRA within 5 days of the close of deer gun season.
- (6) DMAP Participant Requirements
- (a) The participant must collect harvest and observational data as specified by the biologist and the management plan.
 - (b) The participant must make a good faith effort, as determined by TWRA, to complete all jobs and duties specified in the management plan.
 - (c) Property and hunting records of the participants in the DMAP will be open to inspection by any TWRA official with no advance notice.
- (7) Other Requirements or Conditions
- (a) The provisions contained within this rule are intended to be general guidelines for implementation of the deer management assistance program and are not intended to include all requirements or conditions that may be imposed upon participants. Other requirements or conditions are permitted as needed and as determined by TWRA in order to insure the statutory purposes for deer management assistant agreements are carried out.
- (8) Actions affecting the DMAP permit

- (a) The DMAP permit is subject to suspension, revocation or other action for a violation of the terms of the permit or the agreement. Further, the DMAP permit is subject to suspension, revocation or other action if any hunt participant is convicted of a violation of the wildlife laws. Such action may be taken through appropriate proceedings in any court of proper jurisdiction.
- (b) In lieu of court action, the agency may institute proper administrative actions to affect DMAP permit. Utilizing these proceedings, written notice containing the violations will be provided to the DMAP Group Leader as representative of the DMAP permittee. Notice to the DMAP Group Leader shall service as notice to all hunt participants. The notice may be provided either in person or through the United States mail, return receipt requested. Any administrative action shall be instituted pursuant to the Uniform Administrative Procedures Act, T.C.A. Section 4-5-101 et seq.
- (c) In lieu of either court or administrative actions, the DMAP permittee and the agency may negotiate an agreement informally settling any claims of violations.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2003.
(03-17)

WILDLIFE PROCLAMATIONS

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

EMERGENCY PROCLAMATION AMENDING PROCLAMATION 02-17 REGULATING SPRING WILD TURKEY HUNTING SEASONS AND BAG LIMITS

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 emergency amendment to Proclamation 02-17, Regulating Spring Wild Turkey Hunting Seasons and Bag Limits:

Amend Section III. Wildlife Management Areas – Seasons and Miscellaneous Regulations , Subsection A. Regular Managed Hunts by changing the second line under the existing listing for AEDC to read: (TNG training area is closed during the April 4-6 hunt)

Amend Subsection B. Quota Managed Hunts by completely removing the Oak Ridge hunts which were cancelled because of heightened National Security Levels.

This Emergency Proclamation will become effective on March 20, 2003 .

Proclamation No. 03-04 received and recorded this 26th day of March, 2003. (03-11)

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CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning March 3, 2003 and ending March 28, 2003.


RILEY C. DARNELL
Secretary of State

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