

TAAAR



May 15, 2003
Volume 29, Number 5

RILEY C. DARNELL
Secretary of State

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

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Department of State, Authorization No. 305197, 375 copies, April 2003 This public document was promulgated at a cost of \$ per copy.

PREFACE

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

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

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

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

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

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

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

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

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

Reproduction - There are no restrictions on the reproduction of official documents appearing in the Tennessee Administrative Register.

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ANNOUNCEMENTS

STATE BOARD OF EDUCATION - 0520

NOTICE OF STAY OF EFFECTIVE DATES OF RULES

The State Board of Education hereby gives notice that the seventy-five (75) day period for 0520-7-2-.01(1)(f) and 0520-7-2-.07 filed with the Department of State on the 19th day of December, 2002, to have become effective on the 30th day of April, 2003, is hereby stayed for 60 days. Period of time not to exceed sixty (60) days.

The notice of stay set out herein was properly filed in the Department of State on the 29th day of April, 2003, and will be effective from the date of filing for a period of 60 days. The stay of the effective date of rules will remain in effect through the 28th day of June, 2003, unless properly withdrawn by the agency.

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 June 2003 is 8.86 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 4.86 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 April 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 |
|--------|---------------|--|--------------------------|-------------|---|--|----------------|
| 04-01 | April 4, 2003 | 1045 Optometry | Rulemaking Hearing Rules | Amendments | <i>Chapter 1045-2 General Rules Governing the Practice of Optometry</i> 1045-2-.04 License Renewal 1045-2-.05 Continuing Education | Robert J. Kraemer Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 18, 2003 |
| 04-02 | April 4, 2003 | 1000 Nursing | Rulemaking Hearing Rules | New Rules | <i>Chapter 1000-1 Rules And Regulations Of Registered Nurses</i> 1000-1-.17 Interstate Nurse Licensure <i>Chapter 1000-2 Rules and Regulations of Licensed Practical Nurses</i> 1000-2-.16 Interstate Nurse Licensure | Richard Russell Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 18, 2003 |
| 04-03 | April 8, 2003 | 1150 Occupational and Physical Therapy Examiners' | Rulemaking Hearing Rules | Amendments | <i>Chapter 1150-1 General Rules Governing the Practice of Physical Therapy</i> 1150-1-.01 Definitions 1150-1-.02 Scope of Practice and Supervision 1150-1-.06 Fees 1150-1-.10 Reserved | Nicole Armstrong Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 22, 2003 |
| 04-04 | April 8, 2003 | 1050 Osteopathic Examination Council of Certified Professional Midwifery | Rulemaking Hearing Rules | Amendments | <i>Chapter 1050-5 General Rules Governing Certified Professional Midwives</i> 1050-5-.01 Definitions 1050-5-.06 Fees 1050-5-.09 Certification Renewal 1050-5-.11 Inactive Status and Reactivation 1050-5-.15 Disciplinary Grounds, Actions and Civil Penalties | Robert J. Kraemer Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 22, 2003 |
| 04-05 | April 9, 2003 | 0620 Finance and Administration Bureau of TennCare | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-13-14 Bureau of TennCare</i> 1200-13-14-.01 Definitions | George Woods Bureau of TennCare 729 Church Street Nashville, TN 37247-6501 (615) 741-0145 | June 23, 2003 |
| 04-06 | April 9, 2003 | 0620 Finance and Administration TennCare | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-13-13 Bureau of TennCare</i> 1200-13-13-.01 Definitions 1200-13-13-.01 Eligibility | George Woods Bureau of TennCare 729 Church Street Nashville, TN 37247-6501 | June 23, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|--------|---------------|--|--------------------------|-------------|--|---|----------------|
| 04-07 | April 9, 2003 | 0620 Finance and Administration Bureau of TennCare | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-13-14 Bureau of TennCare 1200-13-14-.01 Definitions</i> | George Woods Bureau of TennCare 729 Church Street Nashville, TN 37247-6501 (615) 741-0145 | June 23, 2003 |
| 04-08 | April 9, 2003 | 0620 Finance and Administration Bureau of TennCare | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-13-13 Bureau of TennCare 1200-13-13-.01 Definitions</i> | George Woods Bureau of TennCare 729 Church Street Nashville, TN 37247-6501 (615) 741-0145 | June 23, 2003 |
| 04-09 | April 8, 2003 | 1200 Health Board for Licensing Health Care Facilities Division of Health Care Facilities | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-8-1 Standards for Hospitals</i> <i>Chapter 1200-8-6 Standards for Nursing Homes</i> <i>Chapter 1200-8-10 Standards for Ambulatory Surgical Treatment Centers</i> <i>Chapter 1200-8-11 Standards for Homes for the Aged</i> <i>Chapter 1200-8-15 Standards for Residential Hospice</i> <i>Chapter 1200-8-17 Alcohol and Other Drugs of Abuse Residential Rehabilitation Treatment Facilities</i> <i>Chapter 1200-8-18 Alcohol and Other Drugs of Abuse Non-Residential Treatment Facilities</i> <i>Chapter 1200-8-19 Alcohol and Other Drugs of Abuse DUI School Facilities</i> <i>Chapter 1200-8-20 Alcohol and Other Drugs of Abuse Prevention Program Facilities</i> <i>Chapter 1200-8-21 Alcohol and Other Drugs of Abuse Non-</i> | John W. Dalton OGC Health 26th Fl TN Twr 212 8th Ave N Nashville, TN 37247-0120 615-532-7179 | June 25, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------------|----------------|--|--------------------------------|-------------|--|--|----------------|
| 04-09, cont | | | | | <i>Residential Narcotic Treatment Facilities</i> <i>Chapter 1200-8-22</i> <i>Alcohol and Other Drugs of Abuse Halfway House Treatment Facilities</i> <i>Chapter 1200-8-23</i> <i>Alcohol and Other Drugs of Abuse Residential Detoxification Treatment Facilities</i> <i>Chapter 1200-8-24</i> <i>Standards for Birthing Centers</i> <i>Chapter 1200-8-25</i> <i>Standards for Assisted-Care Living Facilities</i> <i>Chapter 1200-8-26</i> <i>Standards for Home Care Organizations Providing Home Health Services</i> <i>Chapter 1200-8-27</i> <i>Standards for Home Care Organizations Providing Hospice Services</i> <i>Chapter 1200-8-28</i> <i>Standards for HIV Supportive Living Facilities</i> <i>Chapter 1200-8-29</i> <i>Standards for Home Care Organizations Providing Home Medical Equipment</i> | | |
| 04-10 | April 11, 2003 | 1200 Health Health Related Boards Medical Laboratory Board | Rulemaking Hearing Rules | New Rule | <i>Chapter 1200-6-3</i> <i>General Rules Governing Medical Laboratories</i> 1200-6-.3-.19 Exempt Procedures | Robert J. Kraemer Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 24, 2003 |
| 04-11 | April 14, 2003 | 1200 Health Health Care Facilities | Rulemaking Hearing Rules | New Rules | <i>Chapter 1200-8-33</i> <i>Standards for Quality of Care for Health Maintenance Organizations</i> 1200-8-33-.01 Definitions 1200-8-33-.02 Review of Certificate of Authority Applications | Carrie Archie Health OGC 26th FI TN Twr 212 8th Ave N Nashville, TN 37247-0120 615-532-7156 | June 28, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------------|----------------|---|--------------------------|---------------------------------------|--|--|----------------|
| 04-11, cont | | | | | 1200-8-33-.03 Review of Geographic Service Area Expansion Requests 1200-8-33-.04 Surveys of Health Maintenance Organizations 1200-8-33-.05 Reporting by Health Maintenance Organizations 1200-8-33-.06 Standards for Health Maintenance Organizations | | |
| 04-12 | April 14, 2003 | 0260 Chiropractic Examiners | Rulemaking Hearing Rules | Amendment | <i>Chapter 0260-2 General Rules Governing Chiropractic Physicians</i> 0260-2-.13 Professional Ethics | Robert J. Kraemer Health OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | June 28, 2003 |
| 04-17 | April 17, 2003 | 1330 Board of Respiratory Care | Rulemaking Hearing Rules | Amendments | <i>Chapter 1330-1 General Rules Governing Respiratory Care Practitioners</i> 1330-1-.01 Definitions 1330-1-.05 Qualifications and Procedures for Licensure 1330-1-.07 Application, Review, Approval, and Denial 1330-1-.09 Renewal of License 1330-1-.11 Retirement and Reinstatement of License 1330-1-.14 Temporary License 1330-1-.15 Disciplinary Grounds, Actions, and Civil Penalties 1330-1-.21 Upgrading Classification Requirements | Nicole Armstrong OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 1, 2003 |
| 04-18 | April 17, 2003 | 1370 Communications Disorders and Sciences' Council for Licensing Hearing Instrument Specialists | Rulemaking Hearing Rules | Amendments New Rule and Repeal | <i>Chapter 1370-2 General Rules Governing Hearing Instrument Specialists</i> 1370-2-.06 Fees 1370-2-.07 Application Review, Approval, Denial and Interviews 1370-2-.08 Examinations | Ernest Sykes, Jr OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611 | July 1, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|--------|----------------|---|--------------------------------|-------------|--|--|--------------------|
| 04-19 | April 17, 2003 | 0870 Massage Licensure Board | Rulemaking Hearing Rules | Amendments | <i>Chapter 0870-1 General Rules Governing Licensed Massage Therapists and Establishments</i> 0870-1-.01 Definitions 0870-1-.04 Licensure and Provisional Licensure Process 0870-1-.08 Examination | Robert J. Kraemer Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 1, 2003 |
| 04-20 | April 17, 2003 | 1150 Occupational and Physical Therapy Examiners' Committee of Occupational Therapy | Rulemaking Hearing Rules | Amendment | <i>Chapter 1150-2 General Rules Governing the Practice of Occupational Therapy</i> 1150-2-.06 Fees | Nicole Armstrong OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 1, 2003 |
| 04-22 | April 21, 2003 | 0880 Medical Examiners | Rulemaking Hearing Rules | Amendment | <i>Chapter 0880-2 General Rules and Regulations Governing the Practice of Medicine</i> 0880-2-.14 Specifically Regulated Areas and Aspects of Medical Practice | Robert J. Kraemer Health OGC 26th FI TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 5, 2003 |
| 04-23 | April 21, 2003 | 0080 Agriculture Division of Regulatory Services | Proposed Rules | Amendments | <i>Chapter 0080-6 Pest Control Operators</i> 0080-6-15-.01 General Rules 0080-6-15-.02 Denial of License | Patricia Clark Agriculture P.O. Box 40627 Nashville, TN 37204 Telephone: (615) 837-5093 | August 28, 2003 |
| 04-24 | April 22, 2003 | 1200 Health Board for Licensing Health Care Facilities Division of Health Care Facilities | Rulemaking Hearing Rules | New Rules | <i>Chapter 1200-8-32 Standards for End Stage Renal Dialysis Clinics</i> 1200-8-32-.01 Definitions 1200-8-32-.02 Licensing Procedures 1200-8-32-.03 Disciplinary Procedures 1200-8-32-.04 Administration 1200-8-32-.05 Admissions, Discharges, and Transfers 1200-8-32-.06 Basic Required Services 1200-8-32-.07 Reserved 1200-8-32-.08 Building Standards 1200-8-32-.09 Life Safety 1200-8-32-.10 Infectious and Hazardous Waste | John W. Dalton OGC 26th FI TN Twr 212 8th Ave N Nashville, TN 37247-0120 615-532-7179 | July 6, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 04-24, cont | | | | | 1200-8-32-.11 Records and Reports 1200-8-32-.12 Patient Rights 1200-8-32-.13 Procedures for the Withholding of Resuscitative Services 1200-8-32-.14 Disaster Preparedness | | |
| 04-25 | April 23, 2003 | 1660 Wildlife Resources Agency | Rulemaking Hearing Rules | Amendment | <i>Chapter 1660-1-8 Rules And Regulations Of Hunts</i> 1660-1-8-.03 | Sheryl Holtam Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615) 781-6606 | July 7, 2003 |
| 04-26 | April 28, 2003 | 1200 Health Board for Licensing Health Care Facilities | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-8-1 Standards for Hospitals</i> <i>Chapter 1200-8-6 Standards for Nursing Homes</i> <i>Chapter 1200-8-10 Standards for Ambulatory Surgical Treatment Centers</i> <i>Chapter 1200-8-11 Standards for Homes for the Aged</i> <i>Chapter 1200-8-15 Standards for Residential Hospice</i> <i>Chapter 1200-8-17 Alcohol and Other Drugs of Abuse for End Stage Renal Dialysis Clinics Residential Rehabilitation Treatment Facilities</i> <i>Chapter 1200-8-23 Alcohol and Other Drugs of Abuse Residential Detoxification Treatment Facilities</i> <i>Chapter 1200-8-24 Standards for Birthing Centers</i> <i>Chapter 1200-8-25 Standards for Assisted-Care Living Facilities</i> | Nick Aemisegger Health OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 12, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
|-------------|----------------|--|--------------------------------|-------------|---|--|----------------|
| 04-26, cont | | | | | <p><i>Chapter 1200-8-26 Standards for Home Care Organizations Providing Home Health Services</i></p> <p><i>Chapter 1200-8-27 Standards for Home Care Organizations Providing Hospice Services</i></p> <p><i>Chapter 1200-8-28 Standards for HIV Supportive Living Facilities</i></p> <p><i>Chapter 1200-8-29 Standards for Home Care Organizations Providing Home Medical Equipment</i></p> <p><i>Chapter 1200-8-32 Standards</i></p> | | |
| 04-28 | April 28, 2003 | 0080 Agriculture | Rulemaking Hearing Rules | New Rules | <p><i>Chapter 0080-2-15 Dog and Cat Dealers</i></p> <p>0080-2-15-.01 Application</p> <p>0080-2-15-.02 Fees</p> <p>0080-2-15-.03 Conditions for Granting a License</p> <p>0080-2-15-.04 Duration of License and Termination of License</p> <p>0080-2-15-.05 Denial of Initial License Application</p> <p>0080-2-15-.06 Compliance with Standards</p> <p>0080-2-15-.07 Access and Inspection of Records</p> <p>and Property</p> <p>0080-2-15-.08 Inspection for Missing Animals</p> <p>0080-2-15-.09 Confiscation and Destruction of</p> <p>Animals</p> <p>0080-2-15-.10 Records</p> <p>0080-2-15-.11 Transportation of Dogs and Cats</p> | Patricia Clark Agriculture P.O. Box 40627 Ellington Agricultural Ctr Nashville, TN 37204 (615) 837-5093 | July 12, 2003 |
| 04-29 | April 28, 2003 | 0080 Agriculture Division of Regulatory | Proposed Rules | Amendments | <p><i>Chapter 0080-6-21 Administrative Fees</i></p> <p>0080-6-21-.01 Administrative Fees</p> | Patricia Clark Agriculture P.O. Box 40627 Ellington Agricultural Ctr | Aug 28, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 04-29, cont | | Services | | New Rules | <i>Chapter 0080-2-7 Diagnostic Fees</i> 0080-2-7-.01 Bacteriology 0080-2-7-.02 Immunology 0080-2-7-.03 Virology 0080-2-7-.04 Pathology 0080-2-7-.05 Toxicology 0080-2-7-.06 Miscellaneous Charges | Nashville, TN 37204 (615) 837-5093 | |
| 04-30 | April 29, 2003 | 0880 Medical Examiners | Rulemaking Hearing Rules | New Rule and Repeal | <i>Chapter 0880-2 General Rules and Regulations Governing the Practice of Medicine</i> 0880-2-.15. Medical Records | Robert J. Kraemer, Jr OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 13, 2003 |
| 04-31 | April 29, 2003 | 1050 Osteopathic Examination | Rulemaking Hearing Rules | New Rule and Repeal | <i>Chapter 1050-2 General Rules and Regulations Governing the Practice of Osteopathy</i> 1050-2-.18 Medical Records | Robert J. Kraemer, Jr OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 13, 2003 |
| 04-41 | April 30, 2003 | 1200 Health Board for Licensing Health Care Facilities | Rulemaking Hearing Rules | Amendments | <i>Chapter 1200-8-17 Alcohol and Other Drugs of Abuse Residential Rehabilitation Treatment Facilities</i> <i>Chapter 1200-8-18 Alcohol and Other Drugs of Abuse Non- Residential Treatment Facilities</i> <i>Chapter 1200-8-19 Alcohol and Other Drugs of Abuse DUI School Facilities</i> <i>Chapter 1200-8-20 Alcohol and Other Drugs of Abuse Prevention Program Facilities</i> <i>Chapter 1200-8-21 Alcohol and Other Drugs of Abuse Non- Residential Narcotic Treatment Facilities</i> <i>Chapter 1200-8-22 Alcohol and Other Drugs of Abuse Halfway</i> | Nick Aemisegger Health OGC 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611 | July 14, 2003 |

| SEQ NO | FILE DATE | DEPARTMENT & DIVISION | TYPE OF FILING | DESCRIPTION | RULE NUMBER AND RULE TITLE | LEGAL CONTACT | EFFECTIVE DATE |
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| 04-41, cont | | | | | <i>House Treatment Facilities</i> <i>Chapter 1200-8-23</i> <i>Alcohol and Other Drugs of Abuse</i> <i>Residential Detoxification Treatment Facilities</i> | | |

HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE**

Applications will be heard at the June 25, 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 April 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

Nashville Diagnostic Imaging
3319 West End Avenue
Nashville (Davidson Co.), TN 37203
John Crawford – (615)—665-8889
CN0303-018

The establishment of an outpatient diagnostic center, the acquisition of a magnetic resonance imaging (MRI) unit and the initiation of MRI services. If approved, the facility will be located in approximately 2,500 square feet of space. The renovated and newly constructed space will be located on the first floor of the Crystal Terrace Office Building at 3319 West End Avenue, Nashville, Tennessee.

\$ 2,508,000.00

Methodist Medical Center
990 Oak Ridge Turnpike
Oak Ridge (Anderson Co.), TN 37830
Laurie Halsey – (865)—380-2345
CN0303-019

The renovation and expansion of the existing physical plant located at Methodist Medical Center, 990 Oak Ridge Turnpike, Oak Ridge (Anderson County), Tennessee.

\$ 43,731,689.00

BOARD OF MEDICAL EXAMINERS - 0880**PETITION FOR DECLARATORY ORDER
NOTICE OF HEARING**

There will be a hearing before the Board of Medical Examiners to consider a petition for a declaratory order pursuant to T.C.A. §§ 4-5-223 and 4-5-224. The hearing will be conducted as a contested case and in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-301 et seq. It will take place in the Cumberland Room on the Ground Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee during the Board's meeting which begins at 8:30 a.m. CST on July 22, 2003.

Petitioner's Name: Will G. Quarles, M.D.

Petitioner's Address: Overton County Medical Center
310 Oak Street
Livingston, Tennessee 38570

Petitioner's Attorney: Frank J. Scanlon
Watkins, McGugin, McNeilly, & Rowan, PLLC
214 Second Avenue North, Suite 300
Nashville, Tennessee 37201-1638

SUMMARY:

In October, 2002 the Petitioner received a subpoena issued by a member of the Board of Medical Examiners pursuant to rule 0880-1-.01 (O.C.R.R.S.T.) during the course of an investigation of the Petitioner for production of specified patient records in the possession of the Petitioner. The Petitioner refused to comply with the subpoena and asserts that the Board has no authority to issue such an investigative subpoena.

Conclusions the petitioner wants the agency to reach:

That Tennessee Code Annotated § 63-6-214 (l) and rule 0880-1-.01 (O.C.R.R.S.T.) authorize the Board to issue subpoenas only for proceeding before the Board as authorized by Tennessee Code Annotated § 63-6-214 and that any investigative subpoena issued under that rule is invalid.

Citation to statutes and rules which the agency will interpret and/or upon which the agency will base its decision:

Tennessee Code Annotated § 63-6-214 (i) and (l)
Rule 0880-1-.01 Official Compilation of Rules and Regulations of the State of Tennessee
Rule 0880-2-.11 (4) and (8) Official Compilation of Rules and Regulations of the State of Tennessee

Attorney for the State: Robert J. Kraemer, Jr.
Assistant General Counsel
Tennessee Department of Health
26th Floor, W. R. Snodgrass Tennessee Tower
312 8th Avenue North
Nashville, TN 37243
(615) 741-1611

The notice of declaratory order set out herein was properly filed in the Department of State on the 16th day of April, 2003. (04-14)

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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 TENNESSEE DEPARTMENT OF AGRICULTURE - 0080 DIVISION OF REGULATORY SERVICES

CHAPTER 0080-6 PEST CONTROL OPERATORS

Presented herein is a proposed amendment to the rules of the Tennessee Department of Agriculture submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Department of Agriculture to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed in the Commissioner of Agriculture's office located at the Ellington Agricultural Center, Hogan Road, Nashville, Tennessee 37204-0627, and in the Department of State, Administrative Procedures Division, 8th Floor, William R Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the proposed amendment or the entire text of the affected chapter, contact Patricia Clark, General Counsel, Tennessee Department of Agriculture, Ellington Agricultural Center, Box 40627, Nashville, Tennessee 37204, 615-837-5093.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 0080-6-15-.01 General Rules is amended by deleting the rule in its entirety and substituting the following language so that as that the amended rule shall read:

0080-6-15-.01 GENERAL RULES.

- (1) Any person applying for a license as a Commercial Aerial Applicator shall have first obtained a Certification, as provided in the "Tennessee Application of Pesticides Act of 1978" found in Tenn.Code Ann. §§ 62-21-101 et. seq, in the category of pesticides which they intend to apply or provide sufficient evidence of an equivalent certification from a state with which the State of Tennessee has a current and official reciprocal agreement.
- (2) Any person applying for a license as a Commercial Aerial Applicator shall take an examination administered by the department of agriculture as directed by the Commissioner in order to determine if the applicant has the knowledge and technical qualifications necessary for the issuance of such license.

- (3) Aerial Applicators shall maintain a log record for a period of thirty-six (36) months on each application. Such record shall be made available on demand to the Commissioner for his review and copies shall be provided to representatives of the department of agriculture upon request. Aerial Applicators located outside the boundary of the State of Tennessee, shall submit a certified copy of any log record for any or all applications as required by the Commissioner within 48 hours at a time and location designated by the Commissioner.
- (4) The log record shall clearly set out the following information relative to each and every pesticide application:
 - (a) The pesticide used and its EPA registration number.
 - (b) The crop or plant to which the pesticide was applied.
 - (c) The dosage rate of the application.
 - (d) The approximate acreage to which the pesticide was applied.
 - (e) The location, description, and GPS coordinates of the area to which the pesticide is applied.
 - (f) The landowner, producer, or other person employing such Aerial Applicator's services.
 - (g) The date of pesticide application.
 - (h) The name and Tennessee license number of the Aerial Applicator.
 - (i) The decal number of the aircraft used for the application.
- (5) All pesticides applied by Aerial Applicators shall be applied in a manner that is consistent with the label direction for the use of that product. Each Aerial Applicator must submit evidence to prove that label directions were followed and all restrictions were fully met when requested to do so by the Commissioner.
- (6) Aerial Applicators holding a license under existing Tennessee law may renew such license without examination, but such renewed license shall be subject to whatever restrictions or limitations as are indicated by the license pursuant to the provisions of Tenn.Code Ann. § 43-8-302(9).
- (7) A Tennessee issued Aerial Applicator License containing photo identification shall be in the possession of the Aerial Applicator while engaged in the aerial application of pesticides in the State of Tennessee.
- (8) Aerial Applicators in the State of Tennessee shall notify the sheriff's office in the county in which a pesticide application is to be made. Such notification shall be made prior to the pesticide application and no later than the day of the application. The Aerial Applicator shall report the name of the landowner and the location of each intended pesticide application as well as the names(s) of the pesticide (s) to be sprayed.
- (9) All aircraft licensed under this chapter shall be secured or otherwise rendered inoperable by means of a prop chain lock, gust lock, throttle restriction, or other measures acceptable to the Commissioner of Agriculture except when the aircraft is in use or under the direct control of an Aerial Applicator licensed under this chapter or under the direct responsibility of an airport operator.

Authority: T.C.A.. §§43-8-301 through 43-8-309.

Rule 0080-6-15-.02 Denial of License is amended by deleting the rule in its entirety and substituting the following language so that as that the amended rule shall read:

0080-6-15-.02 DENIAL OF LICENSE

The Commissioner of Agriculture may deny licensing to applicants not meeting the requirements for certification and/or licensing or for violations of the rules or statutes concerning the use, purchase or sale of pesticides. Provided however, any person denied such certification or licensure may contest sure decision by requesting a hearing as a contested case under the “Administrative Procedures Act” (Tenn. Code Ann. §§ 4-5- 301 et seq).

Authority: T.C.A.. §§43-8-301 through 43-8-309.

The proposed rules set out herein were properly filed in the Department of State on the 21st day of April, 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 28th day of August, 2003. (04-23)

**THE DEPARTMENT OF AGRICULTURE - 0080
DIVISION OF REGULATORY SERVICES**

**CHAPTER 0080-6-21
ADMINISTRATIVE FEES**

**CHAPTER 0080-2-7
DIAGNOSTIC FEES**

Presented herein are proposed amendments and new rules of the Division of Regulatory Services, Department of Agriculture submitted pursuant to Tenn. Code Ann. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Agriculture to promulgate these amendments and 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 and new rules are published. Such petition to be effective must be filed with the Department of Agriculture, P. O. Box 40627, Ellington Agricultural Center, Nashville, Tennessee 37204, and in the Department of State, Publications Division, 8th Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendments and new rules, or submitted by a municipality which will be affected by the amendments and new rules, 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 and new rules, contact: Patricia Clark, General Counsel, Department of Agriculture, P.O. Box 40627, Nashville, Tennessee 37204, 615-837-5093.

The text of the proposed amendments is as follows:

AMENDMENTS

Part 2 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “one hundred dollars - (\$100.00)”, and substituting the words and figures “Two hundred dollars - (\$200.00)”, so that the amended part shall read:

1. Greenhouse grown plants certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Subpart (i) of Part 2 of paragraph 1 of Rule 0080-6-21-.01 Administrative Fee is amended by deleting the following language, “Exempt from fee as a hobbyist.” and by adding the following language, “One hundred dollars - (\$100.00)”, so that as amended the part shall read:

- (i) Greenhouse grown plants being grown in areas less than
600 square feet.
One hundred dollars - (\$100.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 4 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “One hundred dollars - (\$100.00)” and substituting “Two hundred dollars - (\$200.00)”, so that as amended the part shall read:

4. Native wild plant certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 5 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “One hundred dollars - (\$100.00)” and substituting “Two hundred dollars - (\$200.00)”, so that as amended the part shall read:

5. Native wild plant dealer
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 6 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

6. Nursery stock certification
Two Hundred Dollars - (\$200.00)
 - (i) Nursery stock grown in areas less than 600 square feet.
One hundred dollars – (\$100.00)

- (ii) The following persons are exempt from the fees imposed under Tenn. Code Ann. § 43-1-703 (f)(8), the greenhouse plant certification fee, or any licensure or plant certification fee established by this rule:

- (I) Any person engaged in the production of tobacco seedlings, and any farmer who produces and sells plants or seedlings in connection with such person's farming operations, but who is not primarily engaged in the business of producing and selling plants or seedlings. For purposes of this chapter, "not primarily engaged" means receipts from selling plants or seedlings do not exceed 15% of gross farm receipts for the average of the two previous years or one year if the operation has only been in existence for one year, as shown in federal tax return documents.

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 10 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

10. Turfgrass certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 11 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

11. Vegetable plant certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Subparagraph (b) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

- (b). Plant dealer certificates (each):
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 1 of Subparagraph (b) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "twenty-five - (\$25.00)" and substituting "thirty dollars - (\$30.00)", so that as amended the part shall read:

1. Plant dealers that sell only annual plants and cover an area equal to or less than 100 square feet of space with plant materials.
Thirty Dollars - (\$30.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Subparagraph (c) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the rule shall read:

- (c). Phytosanitary certificates (each):
 Equivalent to federal U.S. Department of Agriculture, Animal Health
 Inspection Service (USDA APHIS) fees in 7 CFR Part 354.3.

Authority: T.C.A. §§4-3-203 and 43-1-703.

NEW RULES

CHAPTER 0080-2-7 DIAGNOSTIC FEES

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| 0080-2-7-.01 Bacteriology | 0080-2-7-.04 Pathology |
| 0080-2-7-.02 Immunology | 0080-2-7-.05 Toxicology |
| 0080-2-7-.03 Virology | 0080-2-7-.06 Miscellaneous Charges |

0080-2-7-.01 BACTERIOLOGY

The fees for bacteriologic testing are twelve dollars (\$12.00) for the first specimen, then six dollars (\$6.00) per specimen thereafter per case, plus six dollars (\$6.00) per isolate for antibiotic sensitivity tests.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.02 IMMUNOLOGY

The fees for immunologic testing are twelve dollars (\$12.00) per test, per sample.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.03 VIROLOGY

The fees for virologic testing are fifteen dollars (\$15.00) per test.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.04 PATHOLOGY

The fees for pathological examination are as follows:

- (a) Necropsy \$35.00 per animal

- | | |
|------------------------------|-----------------------------|
| (b) Histopathology | \$24.00 per animal |
| (c) Submitter special stain | \$12.00 per slide |
| (d) Cytology | \$15.00 per tissue |
| (e) Extra slide preparation | \$ 8.00 per slide |
| (f) Bone marrow evaluation | \$15.00 per case |
| (g) Necropsy plus toxicology | \$60.00 per animal per case |

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.05 TOXICOLOGY

The fees for toxicological testing are twenty-five dollars (\$25.00) for the first test, then twelve dollars (\$12.00) per test thereafter per case.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.06 MISCELLANEOUS CHARGES

Other miscellaneous fees are calculated as follows:

- | | |
|--------------------------|-----------------|
| (a) Mailing | Cost of Service |
| (b) Handling fee | \$2.00 |
| (c) Sample supplies | Cost plus 10% |
| (d) Courier | Cost of Service |
| (e) Past due accounts | 2.0% per month |
| (f) New test development | Cost of Service |

Authority: T.C.A. §43-1-703.

The proposed rules set out herein were properly filed in the Department of State on the 28th day of April, 2003, and pursuant to the instructions set out above, in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of August, 2003. (04-29)

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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

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

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. § 37-5-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in Conference Room 7B on the 7th Floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, Tennessee, 37243, at 9:00 a.m. on the 28th day of May, 2003.

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

For a copy of this notice of rulemaking hearing, contact: Elizabeth Black, Program Coordinator, Foster Care Services, Cordell Hull Building, 8th Floor, 436 6th Avenue, North, Nashville, TN 37243; (615) 532-5636.

SUBSTANCE OF PROPOSED RULES

RULEMAKING HEARING RULES OF THE TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES FOSTER CARE SERVICES

CHAPTER 0250-7-1 KINSHIP FOSTER CARE

NEW RULES

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

0250-7-1-.01 PURPOSE OF CHAPTER

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

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

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

- (1) Department - Refers to the Department of Children's Services.
- (2) Foster Parent - Any person with whom a child in the care, custody or guardianship of the department is placed for temporary or long term care, but shall not include any persons caring for a child if an adoption placement contract has been signed
- (3) Kinship Foster Care - The provision, by relatives, of full time, nurturing care for children in the department's custody. It is considered a form of out-of-home placement and a type of approved foster care placement.
- (4) Kinship Foster Parent - A foster parent who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care in a private residence for children who are related to the kinship foster parent by birth, marriage, or adoption, and who have been removed from their homes as a result of a Child Protective Services investigation or a court adjudication of dependency and neglect, unruly or delinquent, and are in the care and custody of the department.
- (5) Case Manager (CM)- Department of Children's Services staff person assigned to work with the Department of Children's Services foster homes and the children placed in those homes. It is the responsibility of the CM to insure that the child's needs are met, and the foster home is operating in compliance with the Department of Children's Services policy and procedures.
- (6) Team Leader - The front-line supervisor who is responsible for the supervision of staff working with the foster homes and children.
- (7) Team Coordinator - The Department of Children's Services program staff person with the responsibility for staff on one or more teams and with a variety of program responsibility.
- (8) Regional Administrator - The chief official of the Department of Children's Services in a group of counties, or an urban area that comprise a region. The Regional Administrator is responsible for the administration of program as well as the personnel and fiscal issues.
- (9) Parents as Tender Healers (PATH) - Training that consists of group preparation for foster and adoptive parents. It consists of 30 hours of pre-service training and group work, including training on the developmental needs of children and the importance of working cooperatively with the birth parents.
- (10) Degree of Relationship - Relatives must be within the first, second, or third degree of a parent or step-parent of the child. The relatives may be related through blood, marriage, or adoption.

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

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

- (1) A child must be found to be dependent and neglected by the current caregiver, or unruly or delinquent, pursuant to T. C. A. § 37-1-102 in order for the relative to qualify for the Kinship Foster Care Program.

- (2) Degree of Relationship. Kinship foster parent applicants must be within the first, second, or third degree of a parent or step-parent, through blood, marriage or adoption. Applicable relatives include the following:
 - (a) Grandparents of the child
 - (b) Great-grandparents of the child
 - (c) Aunts and uncles of the child
 - (d) Age-appropriate siblings of the child
 - (e) Great-aunts and great-uncles of the child
 - (f) Age-appropriate first cousins of the child
 - (g) Great-great-grandparents of the child
- (3) Initial Assessment Activities. Within three working days of a child coming into custody, a diligent search must be made for any absent parent and/or relative of the child. If relatives are available and willing to be a resource and desire to participate in the Kinship Foster Care Program, the department must assess their suitability and ability to care for the child. The assigned Case Manager must:
 - (a) Visit the home of the relative applying to become a kinship foster parent.
 - (b) Meet with all relevant family members and assess current family function, along with the history of the family functioning.
 - (c) Assess the relationship between the relative and the birth family of the foster child to be placed.
 - (d) Assess the relationship between the foster child and the relative desiring to become the kinship foster parent.
 - (e) Assess the ability and desire of the relative to protect and ensure the child's health, safety, and well-being.

Assess the discipline methods used in the relative's home.
 - (g) Assess the need for financial assistance or service provision to enable the prospective kinship foster parent to care for the child and shall include the availability of public assistance for the family.
- (4) Kinship Foster Care Approval Process. All kinship foster care applicants must meet certain requirements in order to be approved as a kinship foster home.
 - (a) Each relative who is approved as a kinship foster parent must be twenty-one (21) years old or older, except if the spouse or partner of the relative is twenty-one (21) years of age or older and living in the home, and the relative is between eighteen (18) and twenty-one (21) years of age, the department may waive the age requirement. This waiver requires the written approval of the regional administrator of the department.

- (b) Criminal record checks and fingerprinting of the prospective foster parent and of any adult residing in the prospective foster parent's home will be required. Approval shall not be given if the criminal records check reveals a felony conviction of any type of child abuse or neglect; spouse abuse; a crime against children (including child pornography); or a violent crime, including but not limited to, rape, sexual assault or homicide. Additionally, approval shall be denied if the criminal records check reveals a conviction for physical assault, battery, or a drug-related offense with the last five (5) years. Approval shall not be granted if there are pending criminal charges or allegations against the prospective foster parent or any adult residing in the prospective foster parent's home until such time as the charges or allegations are resolved.
 - (c) The Department's Child Protective Services record will be checked, and any applicant with a validated or founded CPS complaint against any member of the household will not be approved as a kinship foster home.
 - (d) Each approved kinship foster parent shall be in good mental and physical health to the extent that they have the ability to provide good care.
 - (e) Each kinship foster parent applicant must supply copies of their birth certificate, marriage certificate, divorce decrees (if applicable), and proof of income.
 - (f) Each kinship foster parent applicant will be required to attend the PATH training for DCS foster parents. Under specific circumstances, the training may be waived for any foster parents, including kinship foster parents.
 - (g) Telephones, smoke detectors and fire extinguishers will be required in each kinship foster home.
 - (h) Each approved kinship foster parent must sign a statement agreeing not to use physical punishment or allow the use of physical punishment by any other person in the home. Each approved kinship foster home must be in compliance with the department's discipline policy as outlined in the Administrative Policies and Procedures, Chapter 16.
 - (i) Each approved kinship foster home is subject to the same policies and procedures as any other DCS foster home, as outlined in the Administrative Policies and Procedures, Chapter 16, except the age requirements and the training requirements as outlined above. The regional administrator of the department shall also have the discretion of waiving the requirements on sleeping areas and storage space in kinship foster homes.
- (5) Kinship Foster Care Homes Reimbursement
- (a) Upon receiving approval as a kinship foster home, foster care board payments will be made based on the age of the foster child, and consistent with the full foster care board payments currently in effect and outlined in the Administrative Policies and Procedures, Chapter 16 and the Foster Parent Handbook. No payment will be made by the department until all application forms are in, the training completed, and the entire record reviewed and approved by the appropriate supervisor.
 - (b) A child placement contract between the department and the kinship foster parent will be signed by the kinship foster parent and the case manager. This contract will outline the responsibilities of the kinship foster parent as well as the department, and will provide a specific amount of board payment. Kinship foster parents will be expected to provide the foster child with a personal allowance if age-appropriate.

(6) Permanency Planning in Kinship Foster Care

- (a) Kinship foster parents shall be involved in the development of the Permanency Plan. Kinship foster parents will be given an explanation of their role and responsibilities, along with those of the child's parents and the department in working to secure a stable, safe and permanent home for the child.
- (b) Kinship foster parents shall be given notice of, and the opportunity to be heard at, all review hearings in order that the court will be able to hear information about the child from the individual (s) who has ongoing, continuous care of the child.
- (c) Kinship foster parents must be able and willing to work with the child's parents, the department, and the courts by cooperating with visitation between the child and their parents, supporting the implementation of the permanency goal, and providing transportation, as needed.

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

0250-7-1-.04 CONFIDENTIALITY OF INFORMATION

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

Authority: T.C.A. §37-2-414.

The notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of August, 2003.
(04-16)

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

There will be a hearing before the Department of Commerce and Insurance to consider the promulgation of rules respecting Timely Reimbursement of Health Insurance Claims, pursuant to Tenn. Code Ann. §§ 56-7-109 and 56-32-226(a). 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 of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee at 9 a.m. CST on the 17th day of June, 2003.

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

For a copy of this notice of rulemaking hearing, contact: Susan J. Geist, Staff Attorney, Department of Commerce and Insurance, Fifth Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and (615) 741-2199.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-1-75

TIMELY REIMBURSEMENT OF HEALTH INSURANCE CLAIMS

NEW RULES

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0780-1-75-.01 PURPOSE AND SCOPE.

- (1) The following rules developed by the Department of Commerce and Insurance govern the timely reimbursement of health insurance claims. The purpose of these rules is to ensure the prompt and accurate payment of all provider claims for covered services delivered to eligible health insured patients. Nothing in these rules should be construed as to require a health insurance entity to pay any claim that is not covered under a policy issued by the health insurance entity.
- (2) Nothing in these rules shall be construed or interpreted as applying to any entity that provides health insurance coverage pursuant to the TennCare Program under Title XIX of the Social Security Act, or any successor to the TennCare Program administered pursuant to the federal Medicaid laws.

Authority: *T.C.A. §56-7-109(d).*

0780-1-75-.02 DEFINITIONS.

All terms not defined herein shall have the same definition as contained in T.C.A. §56-7-109(a).

- (1) “Claims”, as used in this chapter, shall include, but not be limited to, all claims processed through final adjudication, either paid, pending, or denied, as well as capitated claims.
- (2) “Claims data file” means a 3.5” diskette, CD-Rom, or other means of storing electronic information acceptable to the Commissioner, that contains in electronic format the data required by Rule 0780-1-75-.03.
- (3) “Commissioner” means the Commissioner of the Department of Commerce and Insurance.
- (4) “Department” means the Tennessee Department of Commerce and Insurance.
- (5) “Footer data” means such data that is required by Appendix C to this chapter.

- (6) “Header data” means such data that is required by Appendix A to this chapter.
- (7) “Health insurance coverage” means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any policy, certificate or agreement offered by a health insurance entity; provided, that health insurance coverage does not include policies or certificates covering only accident, credit, disability income, long-term care, hospital indemnity, Medicare supplement as defined in § 1882(g)(1) of the Social Security Act, specified disease, other limited benefit health insurance, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which are statutorily required to be contained in any liability insurance policy or equivalent self-insurance.
- (8) “Health insurance entity” means an entity subject to the insurance laws of this state, or subject to the jurisdiction of the Commissioner of Commerce and Insurance, that contracts or offers to contract to provide health insurance coverage, including, but not limited to, an insurance company, a health maintenance organization and a nonprofit hospital and medical service corporation. “Health insurance entity” does not include any entity that provides health insurance coverage pursuant to the TennCare Program under Title XIX of the Social Security Act, or any successor to the TennCare Program administered pursuant to the federal Medicaid laws.
- (9) “Main data” means such data that is required by Appendix B to this chapter.
- (10) “Medical care” means health care services to be delivered to the insureds and/or enrollees covered by the health insurance entity’s plan as set out in the evidence of coverage and/or policy of insurance issued by the health insurance entity, as approved by the Tennessee Department of Commerce and Insurance pursuant to the Tennessee Insurance Law, Tennessee Code Annotated, Title 56.

Authority: T.C.A. §56-7-109(d).

0780-1-75-.03 ANNUAL CLAIMS DATA SUBMISSION REQUIREMENT.

- (1) All health insurance entities shall submit to the Commissioner, by March 1 of every year, a claims data file containing all information required by this rule for claims processed by the health insurance entity for the period of January 1 through December 31 of the preceding year.
- (2) The claims data file shall contain the following data:
 - (a) All header data enumerated in Appendix A to this chapter.
 - (b) All main data enumerated in Appendix B to this chapter.
 - (c) All footer data enumerated in Appendix C to this chapter.

Authority: T.C.A. §56-7-109(d).

0780-1-75-.04 FORMAT FOR SUBMITTED DATA.

- (1) All data submitted to the Commissioner on the claims data file shall be submitted in a database SQL queryable format using either Microsoft Access or Lotus Approach, and shall be in the same font using black as the font color.

- (2) All data located in columns shall be in alpha-numeric format unless otherwise stated. When using numeric data, only regular decimal formats will be acceptable. No compressed or binary (small integer or large integer) will be accepted as valid.
- (3) All date data shall be in Gregorian USA format with a four (4) digit year (MM/DD/YYYY). This means a 2-digit month (with leading zeros when necessary), a slash (/), a 2-digit day (with leading zeros when necessary), a slash (/), and a four-digit year.
- (4) All currency data shall be in units of U.S. dollars with the dollar amount followed by a two (2) digit decimal. Leading zeros and the dollar sign are not necessary but may be used so long as all currency fields are consistent. All fields containing negative amounts shall either be enclosed by parenthesis or preceded by a minus sign (-). If a dollar sign precedes the dollar value, then the minus sign shall precede the dollar sign.
- (5) All header data submitted shall follow the technical specifications in Appendix A and saved in a file named "header" followed by a "." and then followed by a three (3) letter file type. For instance, a file saved in Microsoft Access format would be named "header.mdb".
- (6) All main data submitted pursuant to the technical specifications in Appendix B shall be saved in a file named "main" followed by a "." and then followed by a three (3) letter file type. For instance, a file saved in Microsoft Access format would be named "main.mdb".
- (7) All footer data submitted pursuant to the technical specifications in Appendix C shall contain all of the codes used by the health insurance entity and a description of each code. The footer data shall be saved in a file named "footer" followed by a "." and then followed by a three (3) letter file type. For instance, a file saved in Microsoft Access format would be named "footer.mdb".
- (8) All information submitted must be in accordance with all state and federal privacy laws and regulations.

Authority: T.C.A. §56-7-109(d).

0780-1-75-.05 PENALTIES.

Any health insurance entity which fails to comply with the provisions of this chapter shall be subject to the appropriate sanctions as set forth in the Tennessee Insurance Law, Tennessee Code Annotated, Title 56.

Authority: T.C.A. §56-7-109(d).

**TECHNICAL SPECIFICATIONS
FOR CLAIMS DATA SUBMISSION**

| Appendix A: Header | | |
|---------------------------|----------------------|--|
| Field Number | Name of Field | Description of field requirements |
| Field One | Name of Company | The first field shall be the legal name of the company as it appears on the certificate of authority. |
| Field Two | Address Line 1 | The second field shall be the address field starting with "Address Line 1" as it would normally appear on a database table structure. |
| Field Three | Address Line 2 | The third field shall be "Address Line 2." |
| Field Four | City | The fourth field shall be the "City" field of the company address. |
| Field Five | State | The fifth field shall be the two-digit "State" field of the company address. |
| Field Six | Zip Code | The sixth field shall be the five-digit "Zip Code" field of the company address. |
| Field Seven | Phone Number | <p>The seventh field shall contain the "Phone Number" of the company. Nineteen (19) alpha-numeric characters are available, but only the first twelve (12) alpha-numeric characters are required. If the phone number is in a different structure in the database table, the use of a substring function may be needed.</p> <p>The first three (3) characters must be the area code.</p> <p>The fourth character must be a hyphen or a space.</p> <p>The fifth, sixth, and seventh characters must be the three (3) digit prefix that follows the area code.</p> <p>The eighth character must be a hyphen or space.</p> <p>The ninth, tenth, eleventh, and twelfth characters must be the last four (4) digits of the phone number.</p> <p>If there is an extension that should be entered, an "x" or an "X" shall be placed in the thirteenth position followed immediately by the extension number with a maximum of six (6) alpha-numeric characters.</p> |

| Appendix B: Main | | |
|---|--------------------------|--|
| Column Number | Column Name | Description of column requirements |
| Column One (Primary Index or Unique Index 1) | Sequence Number | The first column shall contain a sequence number that identifies the current row number for the data being processed by the Department of Commerce and Insurance. This number shall always start with one (1) and increase in increments of one (1). |
| Column Two (Unique Index 2 recommended) | Claim Number | This column shall contain part of or all of a unique index identifying the claim that was processed. |
| Column Three (Unique Index 2 recommended) | Line Number | If the Claim Number is not a unique index, then this column shall contain a line number for the claim sufficient to render the combination of the claim number and line number a unique index. |
| Column Four | Type of Claim Submission | This column shall contain a code identifying the method of submission of the respective claim (i.e. electronic or paper). The explanation of the code shall be explained in the Footer Field. |
| Column Five | Type of Coverage | This column shall identify the type of coverage with the explanation of the code in the Footer Field. |

**TECHNICAL SPECIFICATIONS
FOR CLAIMS DATA SUBMISSION**

| | | |
|-----------------|-------------------|--|
| Column Six | Receive Date | This column shall contain the date the health insurance entity received the claim. |
| Column Seven | Service Date | This column shall contain the date the claimant was serviced. |
| Column Eight | Bill Amount | This numeric field shall contain the amount the claimant was billed. |
| Column Nine | Paid Amount | This column shall contain the amount that has been currently paid for the respective claim. |
| Column Ten | Paid Date | This column shall contain the date that the claim was paid or denied. |
| Column Eleven | Status | This column shall contain the final status code of the claim. An explanation of the code shall be contained in the Footer Field. |
| Column Twelve | Allowed or Denied | This column shall contain a code (i.e. allowed or denied). An explanation of the code shall be contained in the Footer Field. |
| Column Thirteen | Reason | This column shall contain the reason code that the claim was allowed or denied in accordance with Column Twelve. |

Appendix C1: Footer Record – Type of Coverage Table

| | | |
|------------------|------------------------------|--|
| Type of Coverage | Type of Coverage Description | |
|------------------|------------------------------|--|

Appendix C2: Footer Record – Status Table

| | | |
|--------|--------------------|--|
| Status | Status Description | |
|--------|--------------------|--|

Appendix C3: Footer Record – Reason Code

| | | |
|--------------|--------------------------|--|
| Reason Codes | Reason Code Descriptions | |
|--------------|--------------------------|--|

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of April, 2003.
(04-13)

**THE TENNESSEE DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH LICENSURE AND REGULATION
DIVISION OF EMERGENCY MEDICAL SERVICES**

There will be a hearing before the Division of Emergency Medical Services to consider the promulgation of amendments of rules pursuant to T.C.A. §§ -140-504, 68-140-506, 68-140-508, and 68-140-517. 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, Ground Floor, located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m., Central Daylight Time, on the 19th day of June, 2003.

Any individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Department of Health, Division of Emergency Medical Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party plans to review such filings, to allow time for the Division of Emergency Medical Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the department's ADA coordinator at the Andrew Johnson Tower, 11th Floor, 710 James Robertson Parkway, Nashville, TN 37243-0675, 615-741-6350.

For a copy of the entire text of the notice of rulemaking, contact Joseph B. Phillips, Director, Division of Emergency Medical Services, Cordell Hull Building, First Floor, 425 Fifth Avenue, North, Nashville, TN 37247-0701, 615-741-2584.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Paragraph (2) of Rule 1200-12-1-.16 Emergency Medical First Responders is amended by deleting the opening language of paragraph (2) in its entirety and substituting the following language so that as amended the paragraph shall read:

- (2) Operation of First Responder Services. A licensed ambulance service classified as a primary provider shall coordinate first response services within its service area. If the primary provider is a contracted ambulance service, the county or local government may designate a representative who shall coordinate first responder services within the service area of its jurisdiction. First responder services shall meet the following standards for participation in the community EMS system. To participate in the community EMS system, each First Responder Service shall:
 - (a) Be a state-chartered or legally recognized organization or service sanctioned to perform emergency management, public safety, fire fighting, rescue, ambulance, or medical functions.
 - (b) Provide a member on each response who is certified as a First Responder, Emergency Medical Technician, or EMT- Paramedic in Tennessee.
 1. Personnel may provide the following additional procedures with devices and supplies consigned under medical direction:
 - (i) First Responders and Emergency Medical Technicians trained in an appropriate program authorized by the Division may perform defibrillation in a pulseless, nonbreathing patient with an automated mode device.

- (ii) Emergency Medical Technicians-I.V. and EMT-Paramedics may administer:
 - (I) Intravenous fluids with appropriate administration devices.
 - (II) Airway retention with Board approved airway procedures.
- (iii) EMT-Paramedics and advanced life support personnel trained and authorized in accordance with these rules may perform skills or procedures as adopted in Rule 1200-12-1-.04(3).
- 2. Such procedures shall be consistent with protocols or standing orders as established by the ambulance service medical director.
- 3. Services shall provide at least six (6) hours of annual in-service training to all EMS First Responder personnel, in a plan and with instructors approved by the medical director.
- (c) Provide services twenty-four (24) hours a day, seven (7) days a week, and notify the primary service and dispatching agent of any time period in which the service is not available or staffed for emergency medical response.
- (d) Provide minimum equipment and supplies and such other equipment and supplies as shall be mutually adopted under the agreement with the primary ambulance service and medical director. The following minimum equipment shall be provided:
 - 1. Emergency Medical Care (Jump) Kit containing:
 - (i) Dressings and bandaging supplies, with adhesive tape, Band-aids, sterile 4" gauze pads, sterile ABD pads, 3" or wider gauze roller bandages, bandage shears, occlusive dressing materials, at least four triangular bandages, and burn sheets.
 - (ii) Patient assessment and protective supplies including a flashlight, disposable gloves, antibacterial wipes or solution with tissues, trash bags, an adult blood pressure cuff with manometer and a stethoscope.
 - 2. Resuscitative devices including oral airways in at least five sizes; a pocket mask; suction device capable of 12 inches vacuum with suction tips for oropharyngeal suction; and, an oxygen administration unit, capable of 2 to 15 liters per minute flow rate with a minimum 150 liter supply.
 - 3. Splints for upper and lower extremities.
 - 4. Patient handling equipment including a blanket and appropriate semi-rigid extrication collars.
- (e) Develop and maintain a memorandum of understanding or agreement of coordination within the service area with the primary provider of emergency ambulance services. If the primary provider is a contracted ambulance service, said agreement shall be developed and maintained with the designated representative of the county or local government. Such agreement will provide for policies and procedures for the following:
 - 1. Personnel and staffing, including a roster of response personnel and approved procedures for such personnel, and the crew component operational for emergency medical response.

2. Designation of vehicles to be operated as prehospital emergency response vehicles, including unit identifiers and station or location from which vehicles will be operated.
 3. Nature of calls for which first response services will be dispatched, and dispatch and notification procedures that assure resources are simultaneously dispatched and that ambulance dispatch is not deferred or delayed.
 4. Radio communications and procedures between medical response vehicles and emergency ambulance services.
 5. On-scene coordination, scene control and responsibilities of the individuals in attendance by level of training.
 6. Medical direction and protocols and/or standing orders under the authority of the ambulance service medical director.
 7. Exchange and recovery of required minimum equipment and supplies and additional items adopted for local use.
 8. Exchange of patient information, records and reports, and quality assurance procedures.
 9. Terms of the agreement including effective dates and provisions for termination or amendment.
- (f) First response services shall maintain professional liability insurance providing indemnity to emergency care personnel and the organization. Each first response service shall maintain the minimum liability coverage which are set forth in T.C.A. § 29-20-403.

Subparagraph (c) of paragraph (6) of Rule 1200-12-1-.16 Emergency Medical First Responders is amended by deleting the present language of the subparagraph in its entirety, and substituting the following language, so that as amended the subparagraph shall read:

- (c) Applicant's score of 70 percent or higher must be obtained on the written examination.
1. Applicants who fail to pass the written examination shall be eligible to reapply for examination for a period up to one year from the original course ending date.
 2. Fees for examination and certification must be submitted if authorized pursuant to Rule 1200-12-1-.06.

Subparagraph (d) of paragraph (6) of Rule 1200-12-1-.16 Emergency Medical First Responders is amended by deleting the present language of the subparagraph in its entirety, and substituting the following language, so that as amended the rule shall read:

- (d) First Responder certification may be renewed upon filing an application, possession of a current Cardiopulmonary Resuscitation card verifying successful completion of a basic life support course which includes automatic external defibrillation for health care professionals, and verification of one of the following:
1. Successful completion of refresher training course of at least sixteen (16) hours meeting the refresher course curriculum approved by the board; or

2. Satisfactory completion of the examination as established in paragraph (6)(c); or
3. Completion of one (1) continuing education unit or ten (10) continuing education hours in the following areas:
 - (i) Preparatory: one (1) hour consisting of:
 - (I) EMS systems
 - (II) Well being of the first responder
 - (III) Legal and ethical issues
 - (IV) Human body
 - (V) Lifting and moving patients
 - (ii) Airway: two (2) hours
 - (iii) Patient assessment: two (2) hours
 - (iv) Circulation: one (1) hour
 - (v) Illness and injury: two (2) hours
 - (I) Medical: one (1) hour
 - (II) Trauma: one (1) hour
 - (vi) Children and childbirth: one (1) hour
 - (vii) Rescue and EMS operations: one (1) hour.

Authority: §§4-5-202; 4-5-204, 68-140-504, 68-140-506, 68-140-508, and 68-140-517.

The notice of rulemaking set out herein was properly filed in the Department of State on the day of 30th day of April, 2003. (04-33)

**THE DEPARTMENT OF HEALTH - 1200
TENNESSEE MEDICAL LABORATORY BOARD**

There will be a hearing before the Tennessee Medical Laboratory Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-29-105 68-29-107, and 68-29-129. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m.(CDT) on the 16th day of July, 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 1200-6-3-.12 Referral of Cultures, to the Department of Health is amended by deleting subparagraphs (1) (c), (1) (l), (1) (m), (1) (n), (1) (o), (1) (q), (1) (r), and (1) (s) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c), (1) (l), (1) (m), (1) (n), (1) (o), (1) (q), (1) (r), and (1) (s) shall read:

- (1) (c) *Corynebacterium diphtheriae*
- (1) (l) *Listeria monocytogenes*, isolated from sterile sites
- (1) (m) *Francisella species*
- (1) (n) *Yersinia pestis*
- (1) (o) *Escherichia coli* O157:H-17
- (1) (q) *Haemophilus influenzae*, isolated from sterile sites
- (1) (r) *Neisseria meningitidis*, isolated from sterile sites
- (1) (s) *Streptococcus pneumoniae*, isolated from sterile sites

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-107.

Rule 1200-6-3-.19 Exempt Procedures, is amended by deleting the catchline and the substance of the rule in its entirety and substituting instead the following new catchline and rule:

1200-6-3-.19 PREPARATORY PORTIONS OF LABORATORY TESTS.

- (1) Tennessee Code Annotated, Section 68-29-129 makes it a violation of the law to allow any person to perform “medical laboratory procedures” except individuals licensed and registered under this chapter. For purposes of that section, the words “medical laboratory procedures” include only the non-preparatory portions of any test required to be performed in a medical laboratory. The preparatory portions of the tests, while they must be performed in a facility licensed by the Board, do not require the extensive education and specialized knowledge required for licensure and may therefore be performed by persons not licensed under the Medical Laboratory Act.
- (2) The following are considered to be preparatory portions of tests to be performed in a medical laboratory that may be assigned to persons not licensed under the Medical Laboratory Act:
 - (a) centrifuging, pouring off and preparing specimens for testing.
 - (b) preparing peripheral smears at bedside or in the laboratory.
 - (c) staining peripheral smears by automated methods.
 - (d) loading primary bar-coded specimens on analyzers.
 - (e) automated process of sorting, decapping, aliquoting and archiving of specimens.
 - (f) primary inoculation of microbiology specimens.
- (3) A medical laboratory director, as defined by T.C.A. § 68-29-103, must approve preparatory portions of tests performed by individuals not licensed under the Tennessee Medical Laboratory Act.
- (4) The laboratory must identify personnel responsible for performing preparatory portions of tests and those with responsibility for supervising them.
- (5) Personnel performing preparatory portions of tests must have adequate, specific training and orientation and must demonstrate satisfactory levels of competency before performing preparatory portions of tests, and a competency demonstration must be performed at least annually thereafter.
- (6) Laboratory surveyors will evaluate preparatory portions of tests at the time of inspection.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-129.

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of April, 2003. (04-21)

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

The Tennessee Department of Mental Health and Developmental Disabilities will hold a public hearing to consider the promulgation of new rules pursuant to Tenn. Code Ann., Section 33-1-302, 305, and 307. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann., Section 4-5-204, and will take place in the Department’s conference room on the third floor of the Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee, at 10:00 a.m. on Thursday, June 19, 2003.

Written comments will be considered if received by close of business, June 16, 2003, at the DMHDD Office of Legal Counsel, 5th Floor, Cordell Building, 425 Fifth Avenue North, Nashville, Tennessee 37243.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Developmental Disabilities ADA Coordinator, Joe Swinford, 5th Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Mr. Swinford’s telephone number is (615) 532-6700; the department’s TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the notice of rulemaking hearing, contact: Anita M. Daniels, Office of Legal Counsel, Tennessee Department of Mental Health and Developmental Disabilities, 5th Floor, Cordell Hull Building 425 Fifth Avenue North, Nashville, Tennessee 37243; telephone (615) 532-6520

SUBSTANCE OF PROPOSED RULES

**DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
DIVISION OF MENTAL HEALTH SERVICES**

CHAPTER 0940-3-6, COMMUNITY MENTAL HEALTH CENTER COOPERATION

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0940-3-6-.01 PURPOSE

- (1) These rules implement the Community Mental Health Center Cooperation Act of 1998 (“Act”), Tennessee Code Annotated, Section 33-2-701 et seq., The Act, under certain circumstances, allows two or more community mental health centers within the State of Tennessee to negotiate and enter into a cooperative agreement between or among themselves upon making an application to the Department for a certificate of public advantage (“COPA”). The Tennessee Department of Mental Health and Developmental Disabilities

may issue a COPA to applicants if the Department determines, in consultation with the Office of Attorney General for the State of Tennessee, that the likely benefits resulting from the cooperative agreement outweigh any disadvantages attributable to a reduction in competition that may result from the cooperative agreement. Once a COPA is issued, the Department shall actively and continually supervise and oversee the implementation and operation of the cooperative agreement to the fullest extent required by law.

0940-3-6-.02 DEFINITIONS

- (1) The following definitions shall apply to terms as they appear in these rules unless the context clearly requires otherwise.
 - (a) “Applicant” or “applicants” means a community mental health center that is a party to a cooperative agreement for which an application for a certificate of public advantage is submitted.
 - (b) “Attorney General” means the Office of the Attorney General for the State of Tennessee.
 - (c) “Certificate Holder” means a community mental health center that is a party to a cooperative agreement that has received a certificate of public advantage.
 - (d) “Certificate of Public Advantage” or “COPA” means the certificate, issued by the Department, that approves and authorizes a cooperative agreement.
 - (e) “Commissioner” means the Commissioner of Mental Health and Developmental Disabilities or his or her designee.
 - (f) “Community mental health center” means:
 1. A community mental health center as defined in Tennessee Code Annotated, Section 33-1-101(6); or
 2. Any parent or corporate affiliate of a community mental health center.
 - (g) “Cooperative agreement” means an agreement among two (2) or more community mental health centers for the offering, provision, operation, coordination, planning, funding, pricing, contracting, utilization review, or management of mental health and related services pursuant to programs funded or administered by departments or agencies of state government, including, but not limited to, the TennCare program, or the sharing, allocation, or referral of patients, personnel, instructional programs, support services, ancillary services, and facilities, or other services traditionally offered by community mental health centers for such programs.
 - (h) “Department” means the Tennessee Department of Mental Health and Developmental Disabilities or any other department or agency that conducted a review of the COPA.
 - (i) “Intervenor” means any hospital, physician, allied health professional, healthcare provider or other person furnishing goods or services to, or in competition with, a community mental health center, insurer, hospital service corporation, medical service corporation, hospital and medical services corporation, preferred provider organization, health maintenance organization, behavioral health organization, or any employer or association that directly or indirectly provides health care benefits to its employees or members.

- (j) “Initial filing” means a summary of the proposed cooperative agreement, describing the affected geographic area, and the proposed benefits and disadvantages of the cooperative agreement.
- (k) “Newspaper of General Circulation” means a publication regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one-year period, which is published for the dissemination of news of general interest, and is circulated generally in the county or counties in which it is published and in which notice is given. A “newspaper of general circulation” shall not be construed to include a newspaper which is not engaged in the distribution of news of general interest to the public, but which is primarily engaged in the distribution of news of interest to a particular group of citizens.
- (l) “Notice of Completion of Application” means a written notice from the Department to the applicants indicating that their application is complete.
- (m) “Person” is as defined in Tennessee Code Annotated, Section 68-11-102(13).
- (n) “Renewal Application” means an application submitted by certificate holders in order to renew a COPA.
- (o) “Shall” or “Must” indicates a mandatory provision.
- (p) “Should” or “May” indicates a suggestion or a recommendation.

0940-3-6-.03**APPLICATION PROCEDURES**

- (1) The application procedures for obtaining a COPA are as follows:
 - (a) Parties to a cooperative agreement shall jointly apply to the Department for a COPA by submitting one COPA application form on behalf of all parties to a single cooperative agreement.
 - (b) The original and two copies of the application must be submitted to the Department.
 - (c) A copy shall also be submitted by the applicants to the Attorney General the same day that the original is filed with the Department.
- (2) The COPA application form:
 - (a) shall identify the legal name or names of each applicant and the address of the principal business office of each applicant;
 - (b) shall identify the person(s) authorized to receive notices and communications with respect to each party’s application as well as answer questions regarding the cooperative agreement. Included shall be the person(s) name, business address, business telephone number, facsimile copier number and electronic mail address ;
 - (c) shall attach an executed written copy of the cooperative agreement for which the application is being made;

- (d) shall present a description of the activity that is the subject of the cooperative agreement, including the duration of the cooperative agreement, and a description of the relevant market;
 - (e) shall present a description of any consideration, direct or indirect, attributable to the activity contemplated under the cooperative agreement that passes to any party to the cooperative agreement;
 - (f) shall address each of the following benefits that might result from the cooperative agreement:
 1. enhancement of the quality of mental health and mental health-related care provided to Tennessee citizens, especially those receiving such services pursuant to programs funded or administered by departments or agencies of state government;
 2. preservation of community mental health facilities in geographical proximity to the communities traditionally served by those facilities;
 3. gains in the cost-efficiency of services provided by the community mental health centers involved;
 4. improvements in the utilization of mental health resources and equipment;
 5. avoidance of duplication of mental health resources; and
 6. enhancement of the efficiency of the administration of programs of state government to provide mental health services to citizens of Tennessee.
 - (g) shall address each of the following potential disadvantages that might be attributable to any reduction in competition likely to result from the cooperative agreement:
 1. the extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations, behavioral health care organizations or other health care payers to negotiate optimal payment and service arrangements with community mental health centers, or other health care providers;
 2. the extent of any reduction in competition among physicians, mental health professionals, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, community mental health centers that is likely to result directly or indirectly from the cooperative agreement;
 3. the extent of any likely adverse impact on persons with mental illness or serious emotional disturbance in the quality, availability, and price of health care services; and
 4. the availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.
 - (h) shall attach copies of all required public notifications.
- (3) The rules governing the acceptance of the application and the application filing fee are as follows:
- (a) The Department shall accept an application for review and may issue a Notice of Completion of Application once the following occur:

1. the application has been received by the Department and the Attorney General;
 2. all public notice provisions have been satisfied; including a public hearing if determined necessary by the Department,
 3. a non-refundable application fee of \$5,000.00 has been received.
- (b) If the Department determines that the application is incomplete, the Department shall not issue the Notice of Completion of Application until the deficiencies in the Application have been cured.
- (c) In the event that a material change occurs with respect to any information submitted by the applicant(s) in the application, the applicant(s) shall timely provide to the Department a detailed written description of the change. Failure to provide the Department with such written description may result in the rejection of the application by the Department.
- (d) If the cooperative agreement primarily relates to a program funded or administered by another department or agency of the government of the state of Tennessee, the Department may refer the application to that other department or agency to conduct the review and render the decision required by rule 0940-3-6-.05(4).
- (4) The rules governing public notice are as follows:
- (a) The applicants shall jointly submit a proposed state register notice for approval by the Department. The Department shall amend the notice, if necessary, to provide sufficient or accurate information and publish the notice in the Tennessee Administrative Register. The state register notice shall contain the following information:
1. the filing date of the application;
 2. the name, address, and telephone number of the person authorized to receive notices and communications with respect to the application for each applicant; and
 3. a general description of the activity.
- (b) The applicants shall jointly post public notice in newspapers of general circulation covering the proposed area to be served.
1. The format shall be in a manner prescribed by the Department.
 2. The notice shall be for one day only.
- (c) The applicant shall be responsible for all cost of public notices.

0940-3-6-.04**COMMENTS AND PUBLIC HEARING**

- (1) Any intervenor shall have standing under Tennessee Code Annotated, Title 4, Chapter 5.
- (2) Any intervenor may provide written comments to the Department, or the other department or agency conducting the review, regarding the activity proposed in the public notice required by rule 0940-3-6-.03(4) by mailing such comments within fifteen (15) days after the notice's publication date.

- (3) A public hearing may be held at the discretion of the Department or after receiving a written request by an intervenor or an applicant within fifteen (30) days after the notice's publication date.
- (4) The public hearing may be held for the purpose of gathering information pertinent to the issues listed in rule 0940-3-6-.03(2)(f, g) or any portion of the Act.
- (5) Notice of the public hearing shall be provided as follows:
 - (a) The person(s) requesting the hearing shall submit a proposed state register notice for approval by the Department. The Department shall amend the notice, if necessary, to provide sufficient or accurate information. The notice shall be published in the Tennessee Administrative Register at least thirty (30) days prior to the hearing.
 - (b) The person(s) requesting the hearing may publish an advertisement in a newspaper of general circulation at least five (5) working days prior to the public hearing.
 - (c) The person(s) requesting the hearing shall provide notice to known applicants and intervenors by telephone, fax, or electronic mail and letter timed so that the notice shall be received at least five (5) working days before the hearing.
- (6) The hearing shall be conducted in accordance with the Contested Case provisions of the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-301, et seq.

0940-3-6-.05**REVIEW AND FINDINGS**

- (1) The Department shall consult with the Attorney General regarding its evaluation of any potential reduction in competition resulting from a cooperative agreement. The Attorney General may consult with the United States Department of Justice or the Federal Trade Commission regarding its evaluation of any potential reduction in competition resulting from a cooperative agreement.
 - (a) The Attorney General and Reporter may consult with the United States Department of Justice or the Federal Trade Commission in conducting its evaluation.
 - (b) If the Attorney General and Reporter, after consultation with the Department, determines it is necessary to consult with the United States Department of Justice or the Federal Trade Commission, the Department may, upon written notice to the applicant, Attorney General and Reporter, and any intervenor, extend its review of the application an additional forty-five (45) days.
- (2) The Department shall grant or deny an application within sixty (60) days of the date of filing of the application. This time period shall be tolled upon issuance of a notice to hold an application hearing until completion of the hearing. The time period may also be tolled if the Department determines that additional time is needed to review the application. Upon written notice to the applicants, the Attorney General and Reporter, and any intervenor, the Department may extend the time for review for a period of thirty (30) days, which, at the discretion of the commissioner, may be extended for an additional thirty (30) days.
- (3) Prior to making an application the parties may submit an initial filing to the Department.
 - (a) This shall be filed at least forty-five (45) days prior to the filing of the application.

- (b) The initial filing shall include the following:
 - 1. Summarize the proposed agreement;
 - 2. Describe the geographic market area; and
 - 3. Include those factors described in 0940-3-6-.03(2)(f) and (g).
- (c) The initial filing shall be reviewed by the Department within thirty (30) days of its receipt. The parties shall inform the parties of any deficiency along with a proposed remedy to correct a deficiency.
- (d) Review of an initial filing by the Department does not constitute approval of the final application.
- (4) The Department shall issue a COPA if it determines that the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the agreement. This determination shall be made by considering the following:
 - (a) the potential benefits of the cooperative agreement including but not limited to those listed in rule 0940-3-6-.03(2)(f);
 - (b) the potential disadvantages of the agreement attributable to any reduction in competition likely to result from the cooperative agreement, including but not limited to those listed in rule 0940-3-6-.03(2)(g); and
 - (c) The evaluation done by the Attorney General of any potential reduction in competition resulting from the agreement.
- (5) Upon making the determination to grant or deny an application, the Department shall send a copy of the decision notice to all applicants for the COPA in question and to the Attorney General. Notice to intervenors of the Department's decision shall be deemed sufficient by the Department's placing a copy of the COPA decision notice in the Tennessee Administrative Register.
- (6) If the Department determines at any time that the likely benefits resulting from a cooperative agreement do not outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the agreement is invalid and has no further force or effect.

0940-3-6-.06 REGULATION AND SUPERVISION

- (1) Each COPA, and every party thereto, shall be subject to the active regulation of and supervision by the Department with respect to the activity or activities contemplated under the COPA.
 - (a) Active regulation and supervision of the COPA and the parties thereto shall include, but not be limited to, an inspection (one of which may be unannounced) and review at least twice annually of the following materials and matters:
 - 1. all records, correspondence, documents or other material of the parties to the COPA regarding development and maintenance of the COPA;

2. all records, correspondence, documents or other material of the parties to the COPA addressing the continued benefits or potential disadvantages of continuation of the COPA;
 3. any other matter deemed relevant by the Department to the continued operation of the COPA and its cooperative agreements.
- (2) The Department shall maintain on file all cooperative agreements for which a COPA remains in effect.
- (3) All certificate holders must annually reapply for a COPA as follows:
- (a) Parties to a cooperative agreement shall jointly submit a single renewal application on behalf of all parties to a single cooperative agreement.
 - (b) The original and two copies of the renewal application must be submitted to the Department or the department or other agency that conducted the review;
 - (c) The renewal application must comply with the requirements of rule 0940-3-6-.03(2), except that the renewal application need not contain copies of public notification as otherwise required by rule 0940-3-6.03(2)(h); and
 - (d) The renewal application must describe any material changes in the implementation or operation of the cooperative agreement, and must address any changes in competition in the relevant market bearing on the cooperative agreement.
- (4) If the Department determines that the COPA continues to comply with the standards listed in rule 0940-3-6-.05(4), the Department shall renew the COPA. If the Department determines that the disadvantages attributable to the COPA outweigh its likely benefits, the COPA is invalid, with no further force or effect. The Department shall give fourteen (14) days notice of its termination of the COPA under this section.

0940-3-6-.07 TERMINATION OF THE COPA BY CERTIFICATE HOLDERS

- (1) Any party to a cooperative agreement that terminates the agreement shall file a notice of termination with the Department. Upon the consent of all certificate holders, certificate holders may voluntarily terminate a COPA by promptly giving joint written notice to the Department.

Authority: *T.C.A., §§ 4-4-103, 4-5-202, 4-5-204, and 33-1-302(a)(3); 33-1-304; 33-1-305(1); 33-2-101; 33-2-701, 33-2-704, 33-2-707*

This notice of rulemaking set out herein was properly filed in the Department of State on the 25th day of April, 2003.
(04-27)

BOARD OF VETERINARY MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-12-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 8th 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 1730-2-.06, Fees, is amended by deleting subparagraphs (1) (c) and (3) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c) and (3) (c) shall read:

- | | | | |
|-----|-----|---|----------|
| (1) | (c) | Premises Permit Fee – A non-refundable fee to be paid at time of application by a facility owned by a non-veterinarian. | |
| (3) | (c) | Premises Permit | \$360.00 |

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of April, 2003.
(04-15)

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 19th day of June, 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

CHAPTER 1660-1-14

RULES AND REGULATIONS FOR REFUGES, WILDLIFE MANAGEMENT AREAS, AND PUBLIC HUNTING AREAS

Rule 1660-1-14-.15 Fees for Special Use on Royal Blue Wildlife Management Area is amended by adding “and Sundquist” after the word “Blue” and by adding “s” to the word “Area” in the title so that, as amended, it shall read as follows:

RULE 1660-1-14-.15 FEES FOR SPECIAL USE ON ROYAL BLUE AND SUNDQUIST WILDLIFE MANAGEMENT AREAS.

Rule 1660-1-14-.15, paragraph 1, subparagraph (a), part 1 is amended by adding “and Sundquist” after the word “Blue” and by adding “s” to the word “Area” so that, as amended, it shall read as follows:

1. Annual Fee - \$50.00 or possession of an annual or permanent Hunting and Fishing License and any permit (required to hunt on the Royal Blue and Sundquist Wildlife Management Areas) or any Sportsman License.

Rule 1660-1-14-.15, paragraph 1, subparagraph (b), part 1 is amended by adding “and Sundquist” after the word “Blue” and by adding “s” to the word “Area” so that, as amended, it shall read as follows:

1. Annual Fee - \$160.00 or possession of a Non-Resident Annual “All Game” hunting license and any permit required to hunt on the Royal Blue and Sundquist Wildlife Management Areas.

Authority: T.C.A. §§70-1-206 and 70-2-225.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of April, 2003. (04-32)

WILDLIFE PROCLAMATIONS

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 03-03 ESTABLISHING HICKORY FLATS WILDLIFE MANAGEMENT AREA

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Section 70-5-101 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following area to be known as Hickory Flats Wildlife Management Area.

Those lands in Coffee County owned by the State of Tennessee as registered in Deed Book 221, page 971 and Deed Book 247, pages 693 and 698 of record in the Register's Office of Coffee County, Tennessee. A more complete description of said property may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

Proclamation No. 03-03 received and recorded this 30th day of April, 2003. (04-34)

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 03-05 PROCLAIMING JOHN TULLY WILDLIFE MANAGEMENT AREA

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-1-302 and 70-5-101, the Tennessee Wildlife Resources Commission hereby proclaims the following area to be known as John Tully Wildlife Management Area:

Those lands in Lauderdale County previously owned by the Anderson Tully Company and those lands previously know as the Fullen tract acquired by the Tennessee Wildlife Resources Agency after January 1, 2002, and other lands owned by the Tennessee Wildlife Resources Agency as posted. A more complete description of said property may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

This proclamation repeals Proclamation 01-21 dated October 25, 2001.

Proclamation No. 03-05 received and recorded this 30th day of April, 2003. (04-35)

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 03-06
AMENDING PROCLAIMING 93-16
OBION RIVER WILDLIFE MANAGEMENT AREA**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, Section 70-1-206, the Tennessee Wildlife Resources Commission hereby amends proclamation 93-16 by inserting the following new paragraph at the end of Section I:

Obion River Wildlife Management Area shall also include approximately 329.52 acres of land and water in Weakley County owned by the State of Tennessee and known as Big Cypress Tree State Natural Area as registered in Book 194 page 411 and Book 154 page 244 and 246 of record in the Register's Office of Weakley County, Tennessee. A more complete description of said property may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

Proclamation No. 03-06 received and recorded this 30th day of April, 2003. (04-36)

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 03-07
PROCLAIMING SUNDQUIST WILDLIFE MANAGEMENT AREA**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, Section 70-1-206, the Tennessee Wildlife Resources Commission hereby proclaims the following area a wildlife management area to be known as the Sundquist Wildlife Management Area.

Those lands in Anderson, Campbell, and Scott Counties in Tennessee previously owned by International Paper Company and acquired by the Tennessee Wildlife Resources Agency after January 1, 2003. A more complete description may be found on file in the office of Tennessee Wildlife Resources Agency in Nashville, Tennessee.

Proclamation No. 03-07 received and recorded this 30th day of April, 2003. (03-37)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 03-08
ESTABLISHING LONG POND WILDLIFE MANAGEMENT AREA**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Section 70-5-101 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following area to be known as Long Pond Wildlife Management Area.

Those lands in Montgomery County owned by the State of Tennessee as registered in Deed Book Volume 674, page 2244 and Deed Book Volume 35, page 26 of record in the Register's Office of Montgomery County, Tennessee. A more complete description of said property may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

Proclamation No. 03-08 received and recorded this 30th day of April, 2003. (04-38)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 03-15
SPORT FISHING PROCLAMATION AMENDMENT**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-4-107 and 70-4-119, thereof, the Tennessee Wildlife Resources Commission proclaims the following amendment to Proclamation 03-01 effective April 30, 2003.

In Section IV, under Quality Trout Fishing Areas, change the boundaries on the Watauga River Quality Trout Fishing Area to "That portion of the Watauga River from Smalling Bridge downstream to the CSX Railroad bridge".

Proclamation 03-15 received and recorded this 30th day of April, 2003. (04-39)

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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 April 1, 2003 and ending April 30, 2003.

A handwritten signature in black ink that reads 'Riley C. Darnell'.

RILEY C. DARNELL
Secretary of State