

TAAAR



November 14, 2003
Volume 29, Number 11

RILEY C. DARNELL
Secretary of State

Division of Publications
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Nashville TN 37243 - 0310

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PREFACE

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

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

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

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

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

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

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

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

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ANNOUNCEMENTS

DEPARTMENT OF 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 8.00%.

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 December 2003 is 9.21 percent 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 5.21 percent.

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 October 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
10-02	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Austin Peay State University	Proposed Rules	Amendments	<i>Chapter 0240-3-1</i> <i>Student Disciplinary Rules</i> 0240-3-1-.05 Disciplinary Procedure 0240-3-1-.07 Traffic and Parking Regulations <i>Chapter 0240-4-1</i> <i>Student Housing Rules</i> 0240-4-1-.01 Eligibility 0240-4-1-.02 Residence Hall Conduct and Disciplinary Sanctions 0240-4-1-.03 Resident Responsibilities 0240-4-1-.05 Contract Term and Conditions 0240-4-1-.06 Reservations (Deposit, Cancellation and Refund Policies 0240-4-1-.08 Miscellaneous	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-03	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee East Tennessee State University	Proposed Rules	Amendments	<i>Chapter 0240-3-2</i> <i>Student Disciplinary Rules</i> 0240-3-2-.05 Disciplinary Procedures 0240-3-2-.06 Traffic and Parking Regulations	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-04	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee University of Memphis	Proposed Rules	Amendments	<i>Chapter 0240-3-3</i> <i>Student Disciplinary Rules</i> 0240-3-3-.06 Judicial Procedures	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-05	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Middle Tennessee State University	Proposed Rules	Amendments	<i>Chapter 0240-3-4</i> <i>Student Disciplinary Rules</i> 0240-3-4-.02 Disciplinary Offenses 0240-3-4-.04 Disciplinary Procedures 0240-3-4-.06 Traffic and Parking Regulations 0240-3-4-.07 Traffic and Parking Regulations	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-06	Oct 8, 2003	0240 Board of Regents State University	Proposed Rules	Amendments	<i>Chapter 0240-3-6</i> <i>Student Disciplinary Rules</i> 0240-3-6-.05 Disciplinary Procedures	Nancy Washington 1415 Murfreesboro Road, Suite 350	Feb 27, 2004

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-06, cont.		and Community College System of Tennessee TN Technical University			0240-3-6-.07 Traffic and Parking Regulations 0240-3-6-.08 Registration of Motor Vehicles <i>Chapter 0240-4-6</i> <i>Student Housing Rules</i> 0240-4-6-.03 Resident Responsibilities 0240-4-6-.04 Visitation Policy 0240-4-6-.05 Contract Term and Conditions 0240-4-6-.06 Reservations (Deposit, Cancellation, and Refund Policies) 0240-4-6-.07 Miscellaneous	Nashville TN 37217 615-366-4438	
10-07	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Chattanooga State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-7</i> <i>Student Disciplinary Rules</i> 0240-3-7-.02 Definitions	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-08	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Roane State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-13</i> <i>Student Disciplinary Rules</i> 0240-3-13-.02 Disciplinary Offenses 0240-3-13-.03 Academic and Classroom Misconduct 0240-3-13-.04 Disciplinary Sanctions 0240-3-13-.05 Discipline Procedures 0240-3-13-.06 Traffic and Parking Regulations	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-09	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Southwest Tennessee Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-14</i> <i>Student Disciplinary Rules</i> 0240-3-14-.03 Classroom Misconduct 0240-3-14-.04 Disciplinary Procedures 0240-3-14-.06 Traffic and Parking Regulations	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-10	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Walters State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-16</i> <i>Student Disciplinary Rules</i> 0240-3-16-.01 Institution Policy Statement 0240-3-16-.02 General Offenses 0240-3-16-.03 Academic And Classroom Offenses 0240-3-16-.04 Sanctions 0240-3-16-.05 Due Process Procedures 0240-3-16-.06 Traffic And Parking Regulations 0240-3-16-.07 Motor Vehicle Registration	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-11	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Nashville State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-17</i> <i>Student Disciplinary Rules</i> 0240-3-17-.01 Institutional Policy Statement 0240-3-17-.02 Disciplinary Offenses 0240-3-17-.04 Disciplinary Sanctions 0240-3-17-.05 Disciplinary Procedures 0240-3-17-.06 Traffic and Parking Regulations 0240-3-17-.07 Motor Vehicle Registration	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-12	Oct 8, 2003	0240 Board of Regents State University and Community College System of Tennessee Pellissippi State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-18</i> <i>Student Disciplinary Rules</i> 0240-3-18-.02 Disciplinary Offenses 0240-3-18-.03 Academic and Classroom Misconduct 0240-3-18-.04 Disciplinary Sanctions 0240-3-18-.05 Disciplinary Procedures 0240-3-18-.06 Traffic and Parking Regulations 0240-3-18-.08 Registration of Vehicles	Nancy Washington 1415 Murfreesboro Road, Suite 350 Nashville TN 37217 615-366-4438	Feb 27, 2004
10-14	Oct 15, 2003	0400 Environment and Conservation Tennessee State Parks	Rulemaking Hearing Rules	Amendments	<i>Chapter 0400-2-2</i> <i>Public Use and Recreation</i> 0400-2-2-.14 Alcoholic Beverages	Jim Fyke 21st Floor, L & C Tower 401 Church Street Nashville, TN 37243-1531 (615) 532-0001	Dec 29, 2003
10-16	Oct 15, 2003	1340 Safety Administrative Division	Proposed Rules	Amendments	<i>Chapter 1340-2-4</i> <i>Handgun Carry Permit Procedures</i> 1340-2-4-.02 1340-2-4-.09 1340-2-4-.13	Wanda Adams Handgun Carry Permit Safety 1150 Foster Ave Nashville TN 37249-1000 615.251.5310	Feb 27, 2003

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-17	Oct 15, 2003	0020 Accountancy	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0020-1 Board of Accountancy, Licensing and Registration Requirements</i></p> <p>0020-1-.01 Definitions 0020-1-.04 Fees 0020-1-.08 Renewal of Licenses 0020-1-.10 Reinstatement of Revoked or Suspended Licenses 0020-1-.13 Reciprocity and Substantial Equivalency</p> <p><i>Chapter 0020-2 Educational and Experience Requirements</i></p> <p>0020-2-.02 Education 0020-2-.03 Experience</p> <p><i>Chapter 0020-3 Rules of Professional Conduct</i></p> <p>0020-3-.03 Independence 0020-3-.17 Retention of Records</p> <p><i>Chapter 0020-5 Continuing Education</i></p> <p>0020-5-.03 Basic Requirements 0020-5-.04 Qualifying Programs 0020-5-.06 Control and Reporting System 0020-5-.07 Extension of Time</p> <p><i>Chapter 0020-6 Peer Review Program</i></p> <p>0020-6-.01 Definitions</p>	Connaught O'Connor Staff Attorney D Crockett Twr 5th fl 500 J Robertson Pkwy Nashville TN 37243-1162 615-741-3072	Dec 29, 2003
10-19	Oct 17, 2003	0020 Accountancy	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0020-1 Board of Accountancy, Licensing and Registration Requirements</i></p> <p>0020-1-.01 Definitions 0020-1-.05 Applications 0020-1-.06 Examinations 0020-1-.07 Cheating 0020-1-.08 Renewal of Licenses</p> <p><i>Chapter 0020-2 Educational and Experience Requirements</i></p> <p>0020-2-.01 Recognized Colleges and Universities 0020-2-.02 Education</p>	Connaught O'Connor Davy Crockett Twr 5th fl 500 James Robertson Pkwy Nashville TN 37243-1162 615-741-3072	Dec 31, 2003

ANNOUNCEMENTS

10-19, cont.					<p>0020-2-.02 Education</p> <p><i>Chapter 0020-3</i> <i>Rules of Professional Conduct</i> 0020-3-.11 Records</p> <p><i>Chapter 0020-5</i> <i>Continuing Education</i> 0020-5-.03 Basic Requirements</p> <p><i>Chapter 0020-6</i> <i>Peer Review Program</i> 0020-6-.01 Definitions 0020-6-.04 Basic Requirements 0020-6-.05 Reviewers and Reviews</p>		
10-20	Oct 17, 2003	0020 Accountancy	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0020-1</i> <i>Board of Accountancy, Licensing and Registration Requirements</i> 0020-1-.04 Fees</p>	Connaught O'Connor Davy Crockett Twr 5th fl 500 James Robertson Pkwy Nashville TN 37243-1162 615-741-3072	Dec 31, 2003
10-21	Oct 17, 2003	0780 Commerce and Insurance Insurance Division	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-1-52</i> <i>Mortality Tables</i> 0780-1-52-.01 Annuity Mortality Tables 0780-1-52-.02 Smoker/Non-smoker Mortality Tables 0780-1-52-.03 Mixed Gender Mortality Tables 0780-1-52-.04 2001 CSO Mortality Table 0780-1-52-.05 Separability 0780-1-52-.06 Effective Date</p>	Barbara Doak Commerce & Insurance D Crockett Twr 5th Fl 500 J Robertson Pkwy Nashville TN 37243 615-741-2199	Jan 3, 2003
10-22	Oct 20, 2003	0460 Dentistry	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0460-1</i> <i>General Rules</i> 0460-1-.02 Fees 0460-1-.13 Ethics</p> <p><i>Chapter 0460-2</i> <i>Rules Governing the Practice of Dentistry</i> 0460-2-.01 Licensure Process 0460-2-.03 Educational Licensure Process 0460-2-.05 Examination 0460-2-.11 Regulated Areas of Practice</p>	Ernest Sykes, Jr. OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 (615) 741-1611	Dec 31, 2003
				New rule	0460-2-.12 Dental Records		

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-27	Oct 24, 2003	0400 Environment and Conservation Water Quality Control	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-4-3</i> <i>General Water Quality Criteria</i></p> <p>1200-4-3-.01 Tennessee Water Quality Control Board</p> <p>1200-4-3-.02 General Considerations</p> <p>1200-4-3-.03 Criteria for Water Uses</p> <p>1200-4-3-.04 Definitions</p> <p>1200-4-3-.05 Interpretation of Criteria</p> <p>1200-4-3-.06 Tennessee Antidegradation Statement</p> <p>1200-4-3-.07 Ground Water Classification</p> <p>1200-4-3-.08 Ground Water Criteria</p> <p>1200-4-3-.09 Site Specific Impaired Classification</p> <p>1200-4-3-.10 Point of Classification Change</p> <p>1200-4-3-.11 Appeals</p> <p><i>Chapter 1200-4-4</i> <i>Use Classifications for Surface Waters</i></p> <p>1200-4-4-.01 Memphis Area Basin</p> <p>1200-4-4-.02 Hatchie River Basin</p> <p>1200-4-4-.03 Obion-Forked Deer Basin</p> <p>1200-4-4-.04 Tennessee River Basin, Western Valley</p> <p>1200-4-4-.05 Duck River Basin</p> <p>1200-4-4-.06 Elk River Basin (including Shoal Creek)</p> <p>1200-4-4-.07 Lower Tennessee River Basin (including Conasauga Basin)</p> <p>1200-4-4-.08 Upper Tennessee River Basin</p> <p>1200-4-4-.09 Clinch River Basin</p> <p>1200-4-4-.10 French Broad River Basin</p> <p>1200-4-4-.11 Holston River Basin</p> <p>1200-4-4-.12 Lower Cumberland River Basin</p> <p>1200-4-4-.13 Upper Cumberland River Basin</p>	Patrick N. Parker Alan M. Leiserson 20th Floor, L&C Tower 401 Church Street Nashville, TN 37243 (615) 532-0131	Jan 7, 2004
10-40	Oct 28, 2003	0400 Environment and Conservation Solid Waste Management	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-1-11</i> <i>Hazardous Waste Management</i></p> <p>1200-1-11-.01 Hazardous Waste Management System: General</p> <p>1200-1-11-.02 Identification and Listing of Hazardous Waste</p> <p>1200-1-11-.03 Notification Requirements and Standards Applicable to Generators of Hazardous Waste</p>	Gerald Ingram Solid Waste 5th Fl L&C Twr 401 Church St Nashville TN 37243-1535 615-532-0850	Jan 12, 2004

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
10-40 cont.					1200-1-11-.04 Permit Requirements and Standards Applicable to Transporters of Hazardous Waste 1200-1-11-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage, and Disposal Facilities 1200-1-11-.06 Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities 1200-1-11-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities 1200-1-11-.08 Fee System for Transporters, Storers, Treaters, Disposers, and Certain Generators Of Hazardous Wastes and for Certain Used Oil Facilities or Transporters 1200-1-11-.09 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities 1200-1-11-.10 Land Disposal Restrictions 1200-1-11-.11 Standards for the Management of Used Oil 1200-1-11-.12 Standards for Universal Waste Management [40 Cfr Part 273] <i>Chapter 1200-1-14 Commercial Hazardous Waste Management Facilities</i> 1200-1-14-.02 Applicability of Rule		
10-54	Oct 29, 2003	0620 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	New Chapter	<i>Chapter 1200-13-15 TennCare Administrative Hearings And Officials</i>	George Woods TennCare 729 Church St Nashville TN 37247-6501 615-741-0145	Jan 12, 2004
10-56	Oct 22, 2003	1500 Human Rights Commission	Notice of Withdrawal		1500-1-.02 (4) (6) (10) Practive and Procedure Filed June 18, 2003; effective Oct 28, 2003	Amber D. Gooding	

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

Applications will be heard at the December 17, 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 October 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
Williamson County Hospital District d/b/a Williamson Medical Center 2021 Carothers Road Franklin (Williamson Co.), TN 37067-8542 Graham Baker – (615)—383-3332 CN0307-055	The establishment of a five (5) bed neonatal intensive care unit (NICU). If approved, the licensed bed complement at the hospital will increase by five (5) beds for a total of one hundred eighty-five (185) beds. \$ 600,643.00
St. Barnabas Nursing Home 600 Pine Street Chattanooga (Hamilton Co.), TN 37402 Eric Boston – (423)—267-3764 CN0308-069	The relocation of a nursing home from 600 Pine Street, Chattanooga (Hamilton County), Tennessee to a newly constructed facility at One Siskin Plaza, Chattanooga (Hamilton County), TN. This project will also include the addition of twenty-one (21) Medicare skilled beds. If approved, the replacement facility will contain a total of one hundred eight (108) nursing home beds. These beds will be considered under the 2003/2004 125-bed pool. \$ 5,506,669.00

NAME AND ADDRESS	DESCRIPTION
Volunteer Home Care of West Tennessee, Inc. 26 West Second Street Parsons (Decatur Co.), TN 38363 Anita Porter – (931)—629-6335 CN0309-072	The addition of Hardin County to the existing home health service area of: Decatur, Wayne, McNairy, Henderson, Hardeman, Chester, Hickman, Lewis, Perry, Dickson, Carroll, Gibson, Madison, Henry, Lawrence and Weakley. This project will result in a service area of 17 counties. The parent office is located at 26 West Second Street, Parsons, Tennessee. \$ 7,000.00
Amedisys Tennessee, LLC d/b/a Amedisys Home Health (Livingston) 420 W. Main Street Livingston (Overton Co.), TN 38570 Newell Yarborough – (912)—925-5896 CN0309-073	The addition of Morgan, Roane, and Scott counties to be transferred from the existing Chattanooga home health agency branch to the parent office located at 508 West Main Street, Livingston, Tennessee. The existing home health service area consists of: Overton, Clay, Cumberland, Fentress, Jackson, Pickett, Putnam and White. This project will result in a service area of eleven (11) counties. \$ 28,000.00
Vanderbilt University Hospital 211 22 nd Avenue South Nashville (Davidson Co.), TN 37232 Ronald Hill – (615)—936-6012 CN0309-075	The addition of 32 acute care beds. The hospital currently has seven hundred nineteen (719) licensed beds and an outstanding Certificate of Need (CN9910-091A) which includes fifty-four (54) additional hospital beds. If approved the hospital will have eight hundred five (805) licensed beds after both the beds in this application and the previously approved fifty-four (54) beds are licensed. This project will include renovation and construction of the existing facility. \$ 37,700.00
Wayne Medical Center 103 J.V. Mangubat Drive P.O. Box 580 Waynesboro (Wayne Co.), TN 38485 Bob Lonis – (931)—540-4163 CN0309-076	The initiation of mobile magnetic resonance imaging (MRI) services one day per week at the medical center's campus. \$ 104,619.00
*Memphis Gastroenterology Endoscopy Center East 6029 Walnut Grove Road, Suite 200 Memphis (Shelby Co.), TN 38120 John Wellborn – (615)—665-2022 CN0309-078	The relocation of an existing ambulatory surgical treatment center limited to gastroenterology from 910 Madison Avenue, Memphis to 6029 Walnut Grove Road, Suite 200 in Memphis (Shelby County), Tennessee. The project will include the addition of two (2) procedure rooms for a total of six (6) procedure rooms consisting of 8,813 square feet, and will also include 2,230 square feet of shared support space with the adjoining private practice office. The services will be limited to the endoscopy outpatients of the Memphis Gastroenterology Group. \$ 2,672,135.00

NAME AND ADDRESS	DESCRIPTION
+Crossings Imaging Center 5801 Crossings Boulevard Antioch (Davidson Co.), TN 37013 John Wellborn – (615)—665-2022 CN0309-079	The initiation of magnetic resonance imaging (MRI) services and the acquisition of a 1.5T MRI unit in a newly constructed 1,150 square foot expansion to an existing clinic/office building of the Pain Management Group. The Group is a multi-specialty physician group dedicated to the provision of chronic pain management services to their patients. \$ 1,522,283.00
East Tennessee Addiction Research and Treatment Center 3019 Millers Point Drive Morristown (Hamblen Co.), TN 37813 Jerry W. Taylor – (615)—726-1200 CN0309-080	The initiation of methadone treatment and the establishment of a non-residential methadone treatment facility. \$ 1,329,232.00
*Summit Surgery Center 3901 Central Pike, Suite 152 Hermitage (Davidson Co.), TN 37076 John Wellborn – (615)—665-2022 CN0309-081	The establishment of an ambulatory surgery treatment center (ASTC) with five (5) operating rooms and two (2) procedure rooms through the remodeling and renovation of the existing 16,015 square feet of space in an office building adjacent to Summit Medical Center. This project will also include the initiation of outpatient surgery services of an existing outpatient surgery center.\$ 6,735,276.00
Life Care Center of Chattanooga 455 North Highland Park Avenue Chattanooga (Hamilton Co.), TN 37404 Richard J. McAfee – (423)—473-5507 CN0309-082	The addition of twenty-two (22) skilled “Medicare” nursing home beds to an existing nursing home. If approved, the facility would contain one hundred fifty-nine (159) licensed nursing home beds. *These beds will be considered under the 2003/2004 125-bed pool. \$ 436,405.00
Tri-State Rehabilitation Hospital 7429 Shallowford Road Chattanooga (Hamilton Co.), TN 37429 William H. West – (615)—726-5561 CN0309-083	The establishment of a 50-bed hospital limited to rehabilitation services. \$ 4,4778,698.00
Tennessee Advanced Neurodiagnostic Institute, Inc. 4525 Hardin Road Nashville (Davidson Co.), TN 37205 Kim Looney – (615)—259-1478 CN0309-084	The initiation of fixed full-time magnetic resonance imaging (MRI) services limited to neurological uses. The unit will be a leased 3.0 Tesla MRI unit located in a 1,200 square foot office on the first floor of an existing medical office building complex. \$ 3,091,199.00

THE TENNESSEE HUMAN RIGHTS COMMISSION - 1500

NOTICE OF WITHDRAWAL OF RULES

The Tennessee Human Rights Commission hereby gives notice of withdrawal of proposed amendment to rule 1500-1-.02 Practice and Procedure, paragraphs (4), (6), and (10), filed with the Department of State on the 18th day of June, 2003, to have become effective on the 28th day of October, 2003.

This notice of withdrawal of rules setout herein was properly filed in the Department of State on the 22nd day of October, 2003. (10-56)

**THE TENNESSEE DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT - 0800**

**PETITION FOR DECLARATORY ORDER BEFORE
THE WORKERS' COMPENSATION DIVISION OF
THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

The petitioner, Premier Group Insurance, pursuant to Tenn. Code Ann. § 4-5-223 and Tenn. Comp. Rules & Regs. 1360-4-1-.07, hereby files this petition for a declaratory order and, for its petition, states as follows:

1. Name of Petitioner: Premier Group Insurance.
2. Address of Petitioner: 1400 City Center, 100 Vine Street, Murfreesboro, Tennessee 37130.
3. Agency Order on which Declaratory Order is Sought: Attached as Exhibit A.
4. Statement of Facts of Controversy & Description of How Order Affects or Should Affect Petitioner:

Bettie Fleming was a home health nurse employed by NHC Homecare Columbia. She undertook a substantial deviation from her employment to shop at a grocery store on 8/30/02, going a substantial distance out of her way. Accordingly, her claim was denied. Nevertheless, workers' compensation specialist felt compelled to issue an order for temporary total disability ("TTD") benefits. She did so based on her alleged *personal knowledge* and *personal familiarity* with the locations and distances in question. A supposedly impartial fact-finder's supposed personal knowledge and supposed personal familiarity with the operative facts surrounding an issue—completely outside the context of the proceeding over which he or she is presiding—is clearly not a competent foundation on which to base a finding in that proceeding. The specialist's order was contrary to law for this reason.

Not only did the specialist usurp a decision that should have been left to a court of competent jurisdiction, but her order for TTD benefits was illegal in several other ways.

Ms. Fleming asked for and was granted the opportunity of receiving full pay via the use of Earned Time Off Days, Perfect Attendance Days, and Sick Days for a portion of the time she was off following her injury at the grocery store. Her request to use these built-up days, which the employer honored, netted her more money than TTD benefits would have done. T.C.A. Section 50-6-207(1)(B) provides that in such a circumstance, “a court of the department of labor and workforce development *has no authority* to require an employer to pay any temporary total disability benefits required by subsection (A) in addition to the employee’s regular wages or salary.” (Emphasis added.) Thus, the subject order was contrary to law to the extent it ordered the employer or its workers’ compensation carrier to pay TTD benefits for days for which Ms. Fleming had requested to use other built-up benefits, which request the employer honored.

Further, the specialist’s order was contrary to law in that the specialist failed to comply with her own department’s governing rules in ordering TTD benefits. Specifically, Ms. Fleming’s treating physician, Dr. Wilburn, released her to return to light to duty effective 11/25/02. She in fact returned to light duty, full-time, at the same rate of pay. Yet the specialist ordered TTD benefits to run through 1/17/03 even though the employee was back at work as early as 11/25/02 (and had received her full salary before that, as explained in the previous paragraph). This is yet another reason the specialist’s order was contrary to law.

Pursuant to Tenn. Code Ann. § 4-5-223 and Tenn. Comp. Rules & Regs. 1360-4-1-.07, petitioner respectfully requests a declaratory order declaring as void the order issued by the workers’ compensation specialist. The order directed the petitioner to pay TTD benefits to a workers’ compensation claimant who did not qualify for those benefits under Tenn. Comp. Rules & Regs. 0800-2-9-.03. The controlling regulation provides in pertinent part as follows:

- (1) To require payment of temporary total disability benefits in a workers’ compensation claim, the workers’ compensation specialist *must* verify an *affirmative answer* to *each* of the following questions:

.....

- (e) Has the physician given an opinion that the employee is totally disabled for work due to the injury for which workers’ compensation benefits are being sought?

.....

- (2) If the workers’ compensation specialist *cannot* verify an *affirmative answer* to *each* question, the workers’ compensation specialist *cannot require* the payment of workers’ compensation benefits.

Tenn. Comp. Rules & Regs. 0800-2-9-.03 (emphasis added).

In issuing the attached order, the workers’ compensation specialist failed to comply with this very regulation. The workers’ compensation specialist relied on a form completed by the employee’s physician. A copy of this form is attached to this petition as Exhibit B.

In ordering temporary total disability benefits, the workers’ compensation specialist apparently just presumed that the employee was actually out of work until the date on which the physician released the employee to return to work at *full* duty. Of course, the assumption of the workers’ compensation specialist overlooks the first date on which the physician released the employee to return to work at *light* duty, which was almost two months before the date on which the employee was returned to *full* duty. This assumption further illustrates how little the workers’ compensation specialist verified about the employee’s eligibility to receive temporary total disability benefits.

The workers’ compensation specialist failed to contact the employer to determine whether the employee had returned to work, and, if so, when. If she had contacted the employer, the workers’ compensation specialist would have learned that the employee returned to work *before* reaching maximum medical improvement and *before* she was released to return to work at full duty. An injured employee is *only* entitled to receive temporary total disability benefits for those dates during which she is totally prevented from working because of the work injury. When an employee becomes able to perform the work, especially when she actually returns to her job, her right to receive temporary total disability benefits terminates.

Clearly, the workers' compensation specialist did not verify that the employee is totally disabled for work as required by regulation 0800-2-9-.03 before issuing the order for temporary total disability benefits. In fact, the workers' compensation specialist issued the order in direct contravention of regulation 0800-2-9-.03. The order for temporary total disability benefits was arbitrary and capricious when issued, and is without a basis in the law.

5. Description of Requested Ruling: The petitioner seeks a declaratory order that the Department's order is void and of no effect for the above reasons, and that the Second Injury Fund must reimburse the employer/petitioner for all monies expended because of this illegal order. The petitioner also respectfully requests any further general or other relief to which it may appear entitled, including, but not limited to, reimbursement for the monies expended to obtain the requested declaratory order, including reasonable attorney's fees.

Respectfully submitted,
PARKER, LAWRENCE, CANTRELL & DEAN

M. Bradley Gilmore (13804)
Kathleen W. Smith (21696)
Fifth Floor, Noel Place
200 Fourth Avenue North
Nashville, Tennessee 37219
(615) 255-7500

Attorneys for Petitioner

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 1200 - Department of Health - Bureau of Health Services Administration Communicable and Environmental Disease Services - Emergency rule covering reporting of diseases to public health authorities, chapter 1200-14-1 Communicable Diseases, 7 T.A.R. (July 15,2003) - Filed June 10, 2003; effective through November 22, 2003. (06-11)
- 1200 - Department of Health - Water Quality Control Board - Division of Water Pollution Control - Emergency rules concerning criterion for nutrients, chapter 1200-4-3 General Water Quality Criteria, 8 T.A.R. (August 15, 2003) - Filed July 31, 2003; effective through January 12, 2004. (07-32)
- 1660 - Wildlife Resources Commission - Emergency rules regarding waterway zoning on Ft. Loudoun Lake, chapter 1660-2-7 Rules and Regulations Governing Operations of Vessels, 10 T.A.R. (October 2003) - Filed September 4, 2003; effective through February 16, 2003. (09-07)

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PROPOSED RULES

THE TENNESSEE BOARD OF REGENTS - 0240 STATE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF TENNESSEE

Presented herein are proposed amendments of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated, § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 350 of the Genesco Park Building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue, North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Mary M. Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4438.

The summaries of the proposed amendments is as follows:

2003 SUMMARY OF INSTITUTIONAL RULE REVISIONS

AUSTIN PEAY STATE UNIVERSITY

Student Disciplinary Rules

The Disciplinary Procedure delineating a student's route of appeal in the university administrative system is amended to permit the Vice President for Student Affairs to delegate the responsibility of hearing appeals to the designee of his / her choice as necessary.

The General Provisions of the Traffic and Parking Regulations are amended to include that vehicles parked on campus are required to be maintained in operating order, and that failure to do so on the owner's part may result in towing and disposal of the vehicle in accordance with state law. Additionally, the amendments impose responsibility on the individual to whom the University vehicle permit is issued for any citations incurred in connection with the operation of the vehicle. Such responsibility will extend to that individual regardless of whom was operating the vehicle at the time of the citation.

The Procedure to Obtain and Display Vehicle Decals is amended to clearly describe the proper method to display the hanging decal issued to all persons with registered vehicles. The Traffic Violations are further amended to include the following: (1) failure of motorcycle operator or rider to wear certified, protective headgear and (2) parking on campus grounds or cultivated areas, unless designated for parking. The Schedule of Fines for traffic violations is amended to increase fines for parking violations to the following amounts: (1) moving violations - \$35; (2) unauthorized parking in visitor, maintenance or emergency vehicle space - \$35; (3) possession / use of fraudulent decal - \$25 *and* revocation of parking privileges for the remainder of the academic term; and (4) all other parking violations - \$25. Language is added to penalize repeat offenders of the regulations by booting / immobilizing the individual's vehicle. The amendments also include the designation of a faculty and staff appeals committee to hear all faculty and staff appeals at least once per semester.

Student Housing Rules

The Student Housing Rules are amended to provide that at any point in a semester after the initial enrollment period, an undergraduate student must be enrolled in a minimum of nine (9) credit hours and a graduate student must be enrolled in a minimum of six (6) credit hours to reside in campus housing without obtaining permission from the Director of Housing/ Residence Life. The rules are amended to repeal the requirement that full and part time freshman under twenty – one years of age residing in University housing must participate in a specific meal plan (i.e., 10, 15 meal plan); rather such students are required to participate in any meal plan of his / her choice. Additionally, the amendments provide that students enrolled in summer school are not required to purchase a meal plan. The Resident Responsibilities section of the rules is amended to remove the specific charge of \$10 to a student's account for failure to adhere to the check out procedures upon vacating the unit. The amendments also repealed the requirement that a student must notify the University at least fourteen (14) days prior to registration to receive a refund of the reservation / damage deposit made at the time of the application if he /she is unable to enter the institution.

EAST TENNESSEE STATE UNIVERSITY

Student Disciplinary Rules

The procedures are amended by several non-substantive changes that include: (1) substituting the title "Assistant Dean of Students" for all references in the existing rules to the "Vice President for Student Affairs", and reflecting that the "Student Affairs Office" rather than the "Office of the Vice President of Student Affairs" shall maintain the official records of all disciplinary cases.

The Traffic and Parking Regulations are amended by adding a new subparagraph providing that vehicles determined to be abandoned, as defined by TCA §55-16-103, will be removed from campus. If the owner of the vehicle may be identified, he/she will be notified by certified mail that their vehicle will be towed by Public Safety and that he/she will be responsible for all tow and storage fees.

MIDDLE TENNESSEE STATE UNIVERSITY

Student Disciplinary Rules

The disciplinary offense rule regarding Misuse of Documents or Identification Cards is amended to add that the violation includes the "giving of any false information to any university official acting in performance of their duties." The language defining the disciplinary offense of cheating removes the word "intent", such that, under the amended version of the rule, the offense of Cheating is complete if a student *uses or attempts to use* unauthorized materials, information, or study aids in any academic exercise. Language is added to the disciplinary offenses to provide that if

a student is present during the planning or commission of any proscribed offense, he / she will be considered as aiding and abetting, and that students who anticipate or observe an offense should remove themselves from the situation. The amendments also provide for the inclusion of “Graffiti” as a Disciplinary Offense. “Graffiti” is defined as “damage or defacement of MTSU property by painting, chalking, writing or stenciling or by any other means of application, on such property”. Language is added to the Academic Misconduct Disciplinary Procedures to provide that a student who is ultimately found guilty of misconduct, and subsequently withdraws from the University, will receive the grade as assigned by the instructor.

The traffic and parking regulations are amended to reflect that the University retains the authority to boot and tow improperly parked and/or unidentifiable vehicles as appropriate and that the owner/registrator of the vehicle is responsible for the any fees associated with this action. Further, the rules require that individuals must possess and show ownership of a state-issued license plate or placard to obtain a Disabled Parking Permit. The parking regulations are amended to provide that individuals with temporary permits issued for injuries or disabilities must park in a white or green space only.

TENNESSEE STATE UNIVERSITY

Student Disciplinary Rules

No changes.

Student Housing Rules

No changes.

TENNESSEE TECHNOLOGICAL UNIVERSITY

Student Disciplinary Rules

The regulation referring to the University’s responsibility for vehicles operated on campus is amended to omit any reference to potential liability as proscribed in the Tennessee Claims Commission Act. The regulations are further amended to indicate that vehicle operators are no longer required to pay the parking meters on campus, and that a vehicle impermissibly left on campus may be removed by towing after a *reasonable period* (not thirty days as previously required). Language is added that allows individuals to register bicycles with the Tennessee Tech Police Department. Additionally, displaying a hang tag registered to another person is added as a new violation pursuant to the Traffic and Parking Regulations. The display of an expired temporary tag is re-classified as a “No Decal Violation”. The amendments require that registration for a disabled parking permit may only be obtained through the County Clerk’s Office, and such permits are only for the use of the individual to whom it was issued.

The Registration of Motor Vehicles rule is amended to provide the current fees to obtain a parking decal for faculty, staff, and students. Faculty are required to pay the following vehicle registration fee for a campus parking permit: \$30 for Fall Semester, \$20 for Spring Semester; \$10 for Summer (replacement fees are half of the initial fee). Staff are required to pay the following vehicle registration fee for a campus parking permit: \$10 for Fall Semester, \$7 for Spring Semester; \$5 for Summer (Staff replacement fees are as follows: Fall \$5, Spring \$3; and Summer \$2). The initial permit for student is included in the General Access fee. Each additional permit is \$30. The rule also provides that replacement decals are available free of charge if the numbers from the decal are returned intact to the Tennessee Tech Police Department. Language is added to subject faculty and staff to the sanctions for the furnishing, selling, loaning, etc. their parking permits to another individual, other than their spouse (this rule formerly applied to students only).

Student Housing Rules

The following general rules are added to the University Student Housing Rules: (1) all residents, following advance notification, may be assessed on a pro-rata basis for damages in public or common areas in and around the facility in which they reside; (2) residents are permitted to host guests of both genders at any time pursuant to the University's 24-hour visitation policy; (3) a student's advance payment of rent for University housing, that is due at the time of application for the same, may only be waived by the Director of Residential Life; and (4) publications containing the specifications for personal refrigerators and / or microwaves will be published in the residence hall guidelines handbook that is available by request and / or online (this publication was traditionally issued to each resident). Language is added to grant the University the right to refuse an application for university student residence halls or apartments. The regulations addressing a resident's ability to receive a refund of his / her payments for housing are amended to provide that the resident may request a buy-out at fifty percent of the current rental rate if he / she is ineligible to be released from the license agreement. Language is added to require that the Office of Residential Life must receive a written notice of cancellation of a student's intent not to move into the facility by August 1 for Fall Semester, December 15 for Spring Semester, and May 15 for Summer Session. Refunds of residence hall rent will be prorated on a weekly (formerly daily) calendar basis when the student is forced to withdraw from the residence hall.

Several non-substantive changes to the amendments include: (1) substituting the term "license/rental agreement" for all references in the existing rules to the term "agreements and leases" and (2) substituting the term "license agreement" for all references in the existing rules to the term "contract".

UNIVERSITY OF MEMPHIS

Student Disciplinary Rules

The amendments to the Judicial Procedures of its Student Organization Disciplinary Procedures provide that the preliminary conference with organizational officers following an alleged violation take place within ten (10) class days (formerly 5 days) to determine if formal disciplinary action is warranted. The amendments further describe the appeals process and sanctions for student organizations. The sanctions are amended to include educational seminars and community service as possible sanctions, while omitting the traditional sanction of restitution.

Several non-substantive changes to the amendments include: (1) changing the office to which violations of the University of policy are to be reported to the "Office of Judicial and Ethical Programs"; and (2) substituting the title "Associate Dean for Judicial and Ethical Programs" for all references in the existing rules to the title "Assistant Vice President for Student Life / Dean of Students".

Student Housing Rules

No changes.

CHATTANOOGASTATE TECHNICAL COMMUNITY COLLEGE

Student Disciplinary Rules

The Disciplinary Offense Regulations pertaining to Academic Misconduct is amended to include unapproved use of electronic devices, calculators, palm pilots, etc. in the definition of "Cheating". Language is added to include the following activities that also constitute Cheating under the rules: (1) obstructing or interfering with another student's efforts in a academic exercise; (2) multiple submission of work without prior permission; and (3) use of computer resources in contravention of TBR Policy 1:08:00:00.

CLEVELAND STATE COMMUNITY COLLEGE

Student Disciplinary Rules

No changes.

COLUMBIAS STATE COMMUNITY COLLEGE

Student Disciplinary Rules

No changes.

DYERSBURG STATE COMMUNITY COLLEGE

Student Disciplinary Rules

No changes.

JACKSON STATE COMMUNITY COLLEGE

Student Disciplinary Rules

No changes.

MOTLOW STATE COMMUNITY COLLEGE

Student Disciplinary Rules

No changes.

NASHVILLE STATE TECHNICAL COMMUNITY COLLEGE

Student Disciplinary Rules

The Traffic and Parking Regulations are amended to provide the following changes: (1) parking outside the Weld Building is designated for commercial loading and unloading only (formerly used for visitor parking also); (2) failure to yield to a pedestrian anywhere, not only in marked crosswalks, on campus is a violation of the rules; and (3) the specification that appeals of traffic tickets must be made within seventy-two (72) hours of issuance.

The non-substantive changes throughout the amendments include: (1) the substitution of name "Nashville State Technical Community College" for all references in the existing rules to name "Nashville State Technical Institute", and (2) the substitution of the title "Director of Security" for all references in the existing rules to the title "Dean of Students".

NORTHEAST STATE TECHNICAL COMMUNITY COLLEGEStudent Disciplinary Rules

No Changes.

PELLISSIPPI STATE TECHNICAL COMMUNITY COLLEGEStudent Disciplinary Rules

The rule outlining Academic and Classroom Misconduct is amended to add that disciplinary action may be taken against a student for violating the regulations on or off the Pellissippi State campus. A student is defined as: “a person registered for study at Pellissippi State for any academic period, including the time that follows the end of an academic period that the student has completed until the last day of the registration for the regular academic period, and periods in which a student is under suspension from the institution.”

The Traffic and Parking Regulations are amended to provide that hang tags are not required for motorbikes and scooters, but that those must be parked in areas designated for motorcycles. The amendments omit the moving violations contained in the current rules. The rules are further amended to describe the locations in which individuals may park pursuant to the signs posted on the Division Street Campus.

ROANE STATE COMMUNITY COLLEGEStudent Disciplinary Rules

The Disciplinary Offense Rule regarding Computer Misuse is amended substantially to designate the priorities for use of the College’s computer labs, such that educational and administrative use maintain the highest priority, and recreation and entertainment use have a low priority. The amended rule prohibits users of the campus computers or systems from the following activities: (1) unauthorized use and / or interference of the computer access account of another; (2) accessing, copying, or tampering with the programs and data files of the College or another individual; (3) unreasonable monopoly of any available resource to the extent of denying others fair use; (4) permitting another to use his / her computer network account; (5) creating programs to collect data about users on the network; (6) using the College’s computers for forms of launching viruses, worms, mail bombs, or other forms of attack; (7) using the computer network to send / access profane or lewd material with the intent to harass or abuse another person; (8) accessing pornographic material; and (9) violating regulations pursuant to the “Digital Millennium Copyright Act of 1998” and the “Online Copyright Infringement Liability Limitation Act”. Individuals violating the Computer Misuse Disciplinary Rule shall be referred to the appropriate college supervisor, or in the case of students, to the Dean of Student Services and Multicultural Affairs. The Executive Director of Information Technology shall assist in the process of collecting evidence of the violations. The potential sanctions for individuals violating the regulations range from revocation of the individual’s right to use the College’s computer network to legal prosecution. Language is added to clarify that the disciplinary offense of gambling in any form is strictly prohibited.

The Traffic and Parking Regulations are amended to explain the two citation appeals processes for faculty / staff and students on the Roane County Campus and the Oak Ridge Branch Campus. Individuals must appeal the citation within seventy-two (72) hours of issuance. The fee for penalties of the traffic regulations is \$20.00, except for parking in a handicapped area which necessitates payment of a \$100.00 fine.

Several non-substantive changes were included in the amendments, such as: (1) the substitution of the word “firefighter” for “fireman”, and (2) the substitution of the title “Dean of Student Services and Multicultural Affairs” for all references in the existing rules to “Dean of Student Services Office”.

SOUTHWEST TENNESSEE COMMUNITY COLLEGEStudent Disciplinary Rules

The Disciplinary Procedures are amended by the non-substantive change of substituting the title “Coordinator of Student Activities” for all references in the existing rules to title “Director of Student Activities”.

The Traffic and Parking Regulations are amended to include the following: (1) a description of the precise manner in which the hang tag type parking permits must be displayed; (2) a provision permitting students to park on campus in any space that is not reserved or designated for handicap use only; and (3) the explicit notification that parking regulations are enforced throughout the campus twenty-four hours a day, seven days a week. The rule pertaining to Payment of Citations within thirty (30) days of issuance to the Bursar’s Office is amended to make the provision applicable to all individuals affiliated with the institution. Language is added to define a “Temporary Parking Permit” as “a permit issued by the Public Safety Department for a brief period of time, usually no more than three (3) working days”. The amendments include improper display of a parking permit as a parking penalty that is subject to a \$15.00 fine.

The Traffic and Parking Regulations are further amended to provide that students must submit their appeals of citations to the “Student Appeals Committee” rather than the “Office of Student Affairs” as in the existing rules, and that the appeal forms are available in the “Public Safety Office” rather than the “Campus Police Office”.

VOLUNTEER STATE COMMUNITY COLLEGEStudent Disciplinary Rules

No changes.

WALTERS STATE COMMUNITY COLLEGEStudent Disciplinary Rules

The disciplinary rules are amended to subject students to sanctions for violations of the regulations that occur off campus in addition to those occurring on campus. For the purpose of the regulations a student is defined as: “any person who is registered for study at the College for any academic period which the student has completed until the last day of the registration for the regular academic period, and during any period while the student is under suspension from the institution.” The amendments include the following as Academic and Classroom Misconduct offenses: (1) violent or disruptive behavior, and (2) other conduct described in the handbooks for specific programs of study. Moreover, the due process procedures are amended to require that a student file a written appeal following the imposition of sanctions for a disciplinary infraction within (10) of receiving formal notification of the sanction.

TENNESSEE TECHNOLOGY CENTERSStudent Disciplinary Rules

No changes.

The proposed rules set out herein were properly filed in the Department of State on the 8th day of October, 2003, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 27th day of February, 2004. (10-02) through (10-12)

**THE TENNESSEE DEPARTMENT OF SAFETY - 1340
ADMINISTRATIVE DIVISION**

**CHAPTER 1340-2-4
HANDGUN CARRY PERMIT PROCEDURES**

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

For a copy of these proposed amendments, contact: Deborah Martin, Staff Attorney, Tennessee Department of Safety Legal Division, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5297.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1340-2-4-.02 is amended by adding the new paragraph at the end of paragraph (10).

- (11) Employed in this state on a regular basis shall mean a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of sick leave, annual leave, administrative leave, or compensatory time.

Authority: *T.C.A. §§ 39-17-1351; 39-17-1360 and 4-3-2009.*

Rule 1340-2-4-.09 is amended by deleting paragraph (5) and substituting the following language so that as amended, the rule shall read:

- (5) A person who has a valid permit, which has been expired for more than six (6) months from the date of the expiration of such permit, will be required to meet all the requirements under Rule 1340-2-4-.05.

Authority: T.C.A. §§ 39-17-1351; 39-17-1360 and 4-3-2009.

Rule 1340-2-4-.09 is amended by adding a new paragraph (6) and by renumbering the remaining paragraphs.

- (6) A person whose permit has expired for six (6) months or less from the date of expiration will be processed pursuant to the renewal provisions of this rule.

Authority: T.C.A. §§ 39-17-1351; 39-17-1360 and 4-3-2009.

Rule 1340-2-4-.13 is amended by deleting paragraphs (1), (2), (3), (4) and (5), and substituting the following language so that as amended, the rule shall read:

- (1) A facially valid handgun permit, firearms permit, weapons permit or a license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, the holder of any such out-of-state permit or license will only authorize the holder to carry a handgun while in this state. For a person to lawfully carry a handgun in this state, based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times such person carries a handgun in this state.
- (2) The Commissioner of Safety shall enter into written reciprocity agreements with other states that require the execution of such agreements. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, such conditions shall also become a part of the agreement and apply to the other states' permit holders when they carry a handgun in this state.
- (3) The Commissioner of Safety shall prepare and publicly publish a current list of states honoring permits issued by the State of Tennessee and shall make the list available to anyone upon request. To the extent that any state may impose conditions in such reciprocity agreements, the Commissioner shall publish those conditions as part of the list. The Commissioner shall also prepare and publicly publish a current list of states that, after inquiry by the Commissioner, refuse to enter into a reciprocity agreement with this state or honor a handgun carry permit issued by this state.
- (4) If a person with a handgun permit from another state becomes a Tennessee resident, such person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee.
- (5) If during the six (6) month period a person with an out-of-state handgun permit applies for a Tennessee handgun carry permit in this state and such application is denied, the person will not be allowed to carry a handgun in this state based upon the other state's permit.
- (6) If such person from another state does not apply for a Tennessee handgun carry permit within six (6) months of establishing residency, such person will be required to meet the requirements of an original handgun application pursuant to Rule 1340-2-4-.05 and pay the prescribed application fee.
- (7) If a person from another state has a handgun permit from that state and applies for a Tennessee handgun permit within six (6) months and the eligibility requirements of the other state are substantially similar to this state, the person will be processed under the renewal provisions of this rule.

- (8) The Commissioner of Safety or his designee shall be the judge of whether the eligibility requirements in another state are substantially similar to the requirements of this state.
- (9) A person from another state who becomes a resident of Tennessee and has not been fingerprinted for both state and federal criminal history records checks, but has completed a firearms safety course consisting of both classroom and firing range sessions; will not be required to complete a handgun safety course; but will be required to:
1. Complete an application.
 2. Provide two (2) full sets of classifiable fingerprints.
 3. Pay the prescribed application fee.
- (10) A person from another state who becomes a resident of Tennessee and has not completed a firearms safety course consisting of both classroom and firing range sessions, but has been fingerprinted for both state and federal criminal history records checks, will not be required to be fingerprinted; but will be required to:
1. Complete an application.
 2. Submit proof of completing a Department of Safety approved handgun carry safety course.
 3. Pay the prescribed renewal fee.
- (11) A person from another state who becomes a resident of Tennessee and has been fingerprinted for both state and federal criminal history record checks and has completed a handgun safety course consisting of both classroom and firing range sessions, will be required to meet the renewal provisions of this rule and pay the prescribed renewal fee.
- (12) If a person who is a resident of and a handgun permit holder in another state and employed in this state on a regular basis and desires to carry a handgun in this state, such person shall have six (6) months from the last day of the sixth (6th) month of regular employment in this state to obtain a Tennessee handgun carry permit. Such permit may be issued based on the person having a permit from another state provided such other state has substantially similar permit eligibility requirements as this state. If during such sixth month period the person applies for a Tennessee handgun carry permit and such application is denied, the person will not be allowed to carry a handgun in this state based upon the other state's permit. This provision shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state.

Authority: T.C.A. §§ 39-17-1351; 39-17-1360 and 4-3-2009.

The proposed rules set out herein were properly filed in the Department of State on the 20th day of October, 2003, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 27th day of February, 2004. (10-16)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT (SEE T.A.R. CITED)

- 0640 - Department of Finance and administration - Bureau of TennCare - Public Necessity rules due process rights of persons currently eligible and potentially eligible for medical assistance through the TennCare Standard program, chapter 1200-13-15 Rules of the TennCare Administrative Hearings and Officials, 8 T.A.R. (August 15, 2003) - Filed July 14, 2003; effective through December 26, 2003. (07-12)

- 1200 - Department of Health - Bureau of Health services - Public necessity rules relating to Conrad J-1 Visa Waiver physicians, chapter 1200-20-11 Rules and Regulations Governing the State Conrad J-1 Visa Waiver Program, 9 T.A.R. (September 2003) - Filed August 13, 2003; effective through January 25, 2004. (08-10)

- 1240 - Department of Human Services - Child Support Division - Public Necessity rules dealing with calculation of child support, chapter 1240-2-4 Child Support Guidelines IV -D, 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-01)

- 1240 - Department of Human Services - Adult and Family Services Division - Public Necessity rules requiring drug screens of drivers providing child care transportation, chapter 1240-4-1 Standards for Group Care Homes - 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-04)

- 1240 - Department of Human Services - Adult and Family Services Division - Public Necessity rules requiring drug screens of drivers providing child care transportation, chapter 1240-4-3 Licensure Rules for Child Care Centers Serving Pre-School Children - 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-05)

- 1240 - Department of Human Services - Adult and Family Services Division - Public Necessity rules requiring drug screens of drivers providing child care transportation, chapter 1240-4-4 Standards for Family Child Care Homes - 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-06)

- 1240 - Department of Human Services - Adult and Family Services Division - Public Necessity rules requiring drug screens of drivers providing child care transportation, chapter 1240-4-6 Licensure Rules for Child Care Centers Serving School-Age Children - 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-07)

- 1240 - Department of Human Services - Family Assistance Division - Public Necessity rules requiring standard of need to be set by July 1, chapter 1240-1-50 Standard of Need/Income - 8 T.A.R. (August 15, 2003) - Filed July 1, 2003; effective through December 13, 2003. (07-03)

- 1500 - The Tennessee Human Rights Commission - Public necessity rules regarding discrimination complaints, chapter 1500-1 Rules for Acting on Complaints of Discrimination, 7 T.A.R. (July 15, 2003) - Filed June 18, 2003; effective through November 30, 2003. (06-20)

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RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-4-106, 63-4-114, 63-4-115, 63-4-119, and 63-4-123. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 2003.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0260-2-.15 Disciplinary Actions, Civil Penalties, Screening Panels, Subpoenas, and Assessment of Costs, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petitioner's

Name: _____

Petitioner's

Mailing Address: _____

Petitioner's

E-Mail Address: _____

Telephone

Number: _____

Attorney for

Petitioner: _____

Attorney's

Mailing Address: _____

Attorney's

E-Mail Address: _____

Telephone

Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
- (i) A copy of the previously issued order; and
- (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-4-106, 63-4-114, and 63-4-115.

Rule 0260-3-.14 Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a certificate previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Chiropractic Examiners

Petitioner’s Name: _____

Petitioner’s Mailing Address: _____

Petitioner’s EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney’s Mailing Address:_____

Attorney’s EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner’s Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-4-106, 63-4-114, 63-4-115, and 63-4-119.

Rule 0260-5-.14 Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation,

or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a certificate previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Chiropractic Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

3. An order issued reflecting that compliance and reinstating a certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
- (i) A copy of the previously issued order; and
- (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's EMail Address:_____

Telephone Number:_____

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-4-106, 63-4-114, 63-4-115, and 63-4-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003. (10-31)

THE BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-17-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 2003.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1370-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (h), and is further amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraph (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or registrant petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-17-219.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 63-1-144, 63-17-105, 63-17-117, 63-17-118, and 63-17-219.

Rule 1370-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly:

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following two (2) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

(iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

(i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Communications Disorders and Sciences

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney’s Mailing Address:_____

 Attorney's EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

 Petitioner's Signature

(3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s EMail Address:_____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-17-105, 63-17-117, and 63-17-118.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of October, 2003.
(10-34)

**BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370
COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS**

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences' Council for Licensing Hearing Instrument Specialists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-203. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 5th day of January, 2004.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1370-2-.12, Continuing Education, Calibration Certificates, and Bills of Sale, is amended by deleting paragraph (3) but not its subparagraphs and substituting instead the following language, and is further amended by adding the following language as new subparagraph (3) (a) and renumbering the existing subparagraphs (3) (a) and (b) as (3) (b) and (c), and is further amended by adding the following language to newly numbered subparagraph (3) (b) as new part (3) (b) 6., so that as amended, the new paragraph (3) but not its subparagraphs, the new subparagraph (3) (a), and the new part 6. of the newly numbered subparagraph (3) (b) shall read:

- (3) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Council. Unless otherwise provided, all courses shall be offered within Tennessee.
- (3) (a) Course approval procedures
 - 1. Pre-approved course providers - Continuing education courses which pertain to hearing instrument specialists shall be considered approved if provided or sanctioned by the following entities:
 - (i) International Hearing Society;
 - (ii) National Board for Certification-Hearing Instruments Specialists;
 - (iii) National Institute for Hearing Instruments Studies;
 - (iv) Any state professional association affiliated with the associations listed in subparts (i) through (iii);

- (v) Any state regulatory agency for hearing instrument specialists in the United States.

2. Course approval procedure for other course providers

- (i) Unless pre-approved as provided in part (3) (a) 1., the course provider must have delivered to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Council:

- (I) course description or outline;
- (II) names of all lecturers;
- (III) brief resume of all lecturers;
- (IV) number of hours of educational credit requested;
- (V) date of course;
- (VI) copies of materials to be utilized in the course; and
- (VII) how verification of attendance is to be documented.

- (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of hearing instrument specialists will be recognized for continuing education credit by the Council if

- (I) the course provider has complied with the provisions of subpart (3) (a) 2. (i); or
- (II) the course provider is exempt from needing prior approval as provided in part (3) (a) 1.

- (iii) Notwithstanding the provisions of the introductory language of this paragraph, out-of-state continuing education providers may seek course approval if they are a hearing instrument specialist regulatory agency or association from a state that borders Tennessee; and

- (I) the course provider has complied with the provisions of subpart (3) (a) 2. (i); or
- (II) the course provider is exempt from needing prior approval as provided in part (3) (a) 1.

3. Course approval procedure for individual licensees

- (i) Any licensee may seek approval to receive credit for successfully completing continuing education courses by delivering to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, everything required in items (3) (a) 2. (i) (I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Council; and

- (ii) To retain course approval, the licensee must submit a course evaluation form, supplied by the Council, to the Council's Administrative Office within thirty (30) days after successfully completing the course.
- (3) (b) 6. Courses provided by any individual hearing instrument manufacturer in excess of ten (10) hours during each renewal cycle.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-203.

Rule 1370-2-.15 Disciplinary Actions, Civil Penalties, Informal Settlements, Assessment of Costs, and Subpoenas, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-17-219.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-144, 63-17-105, 63-17-203, 63-17-219, and 63-17-220.

The notice of rulemaking set out herein was properly filed in the Department of State on the 3rd day of October, 2003. (10-01)

THE BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES' - 1370 COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences' Council for Licensing Hearing Instrument Specialists to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-203. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE**AMENDMENT**

Rule 1370-2-.15, Disciplinary Actions, Civil Penalties, Informal Settlements, Assessment of Costs, and Subpoenas, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2), (3) and (4), and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraph (1) (g) and the new paragraphs (2), (3), and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Council and Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Council after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Council and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following two (2) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Council's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Council's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Council as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Council and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
 Board of Communications Disorders and Sciences'
 Council for Licensing Hearing Instrument Specialists

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's EMail Address:_____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Council’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Council and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Council and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Council’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Council as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Council and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petition for Order Modification
 Board of Communications Disorders and Sciences’
 Council for Licensing Hearing Instrument Specialists

Petitioner’s Name: _____

Petitioner’s Mailing Address: _____

Petitioner’s EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-17-105, 63-17-203, 63-17-219, and 63-17-220.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-51)

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

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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, 1st Fl., Cordell Hull Building, 425 5th Ave. North, Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0450-1-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
 Board for Professional Counselors, Marital and Family Therapists,
 and Clinical Pastoral Therapists

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney’s Mailing Address: _____

Attorney’s EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20__.

Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have

been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:

(i) A copy of the previously issued order; and

(ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

(iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

(i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Board for Professional Counselors, Marital and Family Therapists,
and Clinical Pastoral Therapists

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-22-102, and 63-22-110.

Rule 0450-2-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board for Professional Counselors, Marital and Family Therapists,
and Clinical Pastoral Therapists

Petitioner’s Name:
Petitioner’s Mailing Address:

Petitioner’s E-Mail Address:
Telephone Number:

Attorney for Petitioner:
Attorney’s Mailing Address:

Attorney’s E-Mail Address:
Telephone Number:

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s

consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or

- (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
 Board for Professional Counselors, Marital and Family Therapists,
 and Clinical Pastoral Therapists

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-22-102, and 63-22-110.

Rule 0450-3-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
- (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (iii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
 Board for Professional Counselors, Marital and Family Therapists,
 and Clinical Pastoral Therapists

Petitioner’s Name: _____

Petitioner’s Mailing Address: _____

Petitioner’s EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only

when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board for Professional Counselors, Marital and Family Therapists,
and Clinical Pastoral Therapists

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-22-102, and 63-22-110.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003.
(10-30)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0460-1-.06, Disciplinary Actions, Civil Penalties, Procedures, Declaratory Orders, Assessment of Costs, and Subpoenas, is amended by deleting subparagraphs (1) (g) and (1) (i) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (i), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (i) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or registrant petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or registration previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Dentistry

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license or registration previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20__.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, to modify any findings of

fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the

petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Dentistry

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-5-105, 63-5-116, and 63-5-124.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003. (10-29)

THE BOARD OF DIETITIAN / NUTRITIONIST EXAMINERS - 0470

There will be a hearing before the Tennessee Board of Dietitian / Nutritionist Examiners to consider the promulgation of amendments to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-25-107. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0470-1-.15, Disciplinary Actions, Civil Penalties, Informal Settlements, Assessment of Costs, and Subpoenas, is amended by deleting subparagraph (1) (g) and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (g) and the new paragraph (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (4) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-25-110.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-144, 63-25-107, and 63-25-110.

Rule 0470-1-.15, Disciplinary Actions, Civil Penalties, Informal Settlements, Assessment of Costs, and Subpoenas, is amended by adding the following language as new paragraphs (2), (3) and (4), and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (2), (3), and (4) shall read:

- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.

- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Dietitian / Nutritionist Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

**Petition for Order Modification
Board of Dietitian / Nutritionist Examiners**

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-25-107, and 63-25-110.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day October, 2003. (10-52)

THE TENNESSEE BOARD OF ELECTROLYSIS EXAMINERS - 0540

There will be a hearing before the Tennessee Board of Electrolysis Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 63-26-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0540-1-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2), (3) and (4) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraph (1) (g) and the new paragraphs (2), (3), and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

- (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

Telephone Number:

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-26-108, and 63-26-123.

Rule 0540-3-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2), (3) and (4) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraph (1) (g) and the new paragraphs (2), (3), and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed operation of an electrology school civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or

3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address:-----
Telephone Number:-----
Attorney for Petitioner:-----
Attorney's Mailing Address:-----

Attorney's EMail Address:-----
Telephone Number:-----

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of , 20____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed operation of an electrology school civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not

available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-26-108, 63-26-119, and 63-26-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003.
(10-45)

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

There will be a public hearing before the technical secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations under the authority of Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be distributed to the members of the Tennessee Air Pollution Control Board for their review in regard to the proposed amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 159 Fourth Avenue North, Nashville, Tennessee, at 9:30 a.m. on Tuesday, Dec. 16, 2003. Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of these comments to be submitted to the hearing officer at the public hearing.

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Tuesday, Dec. 16, 2003, at the following address: Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to December 16, 2003 or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Ron Culberson at (615) 532-0554. Copies of documents concerning this matter are available for review at the office of the technical secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. Ron Culberson, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0554.

SUBSTANCE OF PROPOSED RULE

**CHAPTER 1200-3-26
ADMINISTRATIVE FEES SCHEDULE**

AMENDMENT

Subparagraph (d) of paragraph (9) of rule 1200-3-26-.02 Construction and Annual Emission fees is amended by striking the two citations to the period "July 1, 2002, through June 30, 2003," and inserting in their places "July 1, 2003, through June 30, 2004;" striking the value "\$28.00" and inserting in its place the value "\$30.00;" striking the value "\$17.50" and inserting in its place the value "\$19.50;" inserting after the second sentence of the subparagraph the sentence "Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than \$2,500 for the annual accounting period July 1, 2003, through June 30, 2004;" inserting between the words "revision" and "must" in the next-to-last sentence of the subparagraph the words "to these rates and the minimum fee;" and inserting between the words "rates" and "shall" in the last sentence of the subparagraph "and the minimum fee" so that, as amended, the subparagraph shall read:

- (d) The rate at which major source actual-based annual emission fees are assessed shall be \$30.00 per ton for the annual accounting period July 1, 2003, through June 30, 2004. The rate at which major source allowable-based annual emission fees are assessed shall be \$19.50 per ton for the annual accounting period July 1, 2003, through June 30, 2004. Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than \$2,500 for the annual accounting period July 1, 2003, through June 30, 2004. An annual revision to these rates and the minimum fee must result in the collection of sufficient fees to fund the activities identified in subparagraph 1200-3-26-.01(1)(c). These annual rates and the minimum fee shall be supported by the Division's annual workload analysis that is approved by the Board.

Authority: T.C.A. §68-201-105 and, 4-5-202 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2003. (10-55)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY**

There will be a hearing before the Division of Water Supply representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the regulations for Public Water Systems and Drinking Water Quality Chapter 1200-5-1 pursuant to T.C.A. 68-221-701 et seq. The proposed amendments were drafted primarily to incorporate into state regulations technical corrections to the rules. The arsenic standard is being corrected to comply with the federal revision to the standard. The hearing will be held at the Fleming Training Center, 2022 Blanton Drive, Murfreesboro, TN at 10:00 a.m. CST on January 8, 2004.

Written comments will also be considered if received at the Division of Water Supply, 401 Church Street, Nashville, TN 37243-1549 by the close of business January 15, 2004.

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone, or other means and should be made no less than ten days prior to January 8, 2004, to allow time to provide such aid or services. Please contact the ADA Coordinator at, 1-866-253-5827. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of the proposed rules under this notice of rulemaking hearing, contact the Tennessee Division of Water Supply at 615-532-0191. A complete text of the proposed Rules may also be found by visiting the Department of Environment and Conservation's web site at <http://www.state.tn.us/environment/dws>.

SUBSTANCE OF THE PROPOSED RULES

**CHAPTER 1200-5-1
PUBLIC WATER SYSTEMS**

AMENDMENTS

Part 2 of subparagraph (b) of paragraph (1) of Rule 1200-5-1-.06 Maximum Contaminant Levels is amended by deleting the existing language in its entirety and adding new language so that, as amended, part 2 shall read:

2. Arsenic 0.010

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

Subparagraph (b) of paragraph (4) of Rule 1200-5-1-.06 Maximum Contaminant Levels is amended by deleting the existing language in its entirety and by the addition of new language so that as amended it shall read:

- (b) Any fecal coliform-positive repeat sample or E-coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform positive or E-coli positive routine sample constitutes a violation of the MCL for total coliforms. For purposes of the public notification requirements in 1200-5-1-.19 this is a tier 1 violation that may pose an acute risk to health.

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

Table 1.1 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.1 - CT Values (CT 99.9) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 0.5°C or Lower¹

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤6.0	6.5	7.0	7.5	8.0	8.5	≤9.0
≤0.4	137	163	195	237	277	329	390
0.6	141	168	200	239	286	342	407
0.8	145	172	205	246	295	354	422
1.0	148	176	210	253	304	365	437
1.2	152	180	215	259	313	376	451
1.4	155	184	221	266	321	387	464
1.6	157	189	226	273	329	397	477
1.8	162	193	231	279	338	407	489
2.0	165	197	236	286	346	417	500
2.2	169	201	242	297	353	426	511
2.4	172	205	247	298	361	435	522
2.6	175	209	252	304	368	444	533
2.8	178	213	257	310	375	452	543
3.0	181	217	261	316	382	460	552

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

Table 1.2 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.2 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 5.0°C¹

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤6.0	6.5	7.0	7.5	8.0	8.5	≤9.0
≤0.4	97	117	139	166	198	236	279
0.6	100	120	143	171	204	244	291
0.8	103	122	146	175	210	252	301
1.0	105	125	149	179	216	260	312
1.2	107	127	152	183	221	267	320
1.4	109	130	155	187	227	274	329
1.6	111	132	158	192	232	281	337
1.8	114	135	162	196	238	287	345
2.0	116	138	165	200	243	294	353
2.2	118	140	169	204	248	300	361
2.4	120	143	172	209	253	306	368
2.6	122	146	175	213	258	312	375
2.8	124	148	178	217	263	318	382
3.0	126	151	182	221	268	324	389

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

Table 1.3 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.3 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 10.0°C¹

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤6.0	6.5	7.0	7.5	8.0	8.5	≤9.0
≤0.4	73	88	104	125	149	177	209
0.6	75	90	107	128	153	183	218
0.8	78	92	110	131	158	189	226
1.0	79	94	112	134	162	195	234
1.2	80	95	114	137	166	200	240
1.4	82	98	116	140	170	206	247
1.6	83	99	119	144	174	211	253
1.8	86	101	122	147	179	215	259
2.0	87	104	124	150	182	221	265
2.2	89	105	127	153	186	225	271
2.4	90	107	129	157	190	230	276
2.6	92	110	131	160	194	234	281
2.8	93	111	134	163	197	239	287
3.0	95	113	137	166	201	243	292

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

Table 1.4 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.4 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 15.0°C¹

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤6.0	6.5	7.0	7.5	8.0	8.5	≤9.0
≤0.4	49	59	70	83	99	118	140
0.6	50	60	72	86	102	122	146
0.8	52	61	73	88	105	126	151
1.0	53	63	75	90	108	130	156
1.2	54	64	76	92	111	134	160
1.4	55	65	78	94	114	137	165
1.6	56	66	79	96	116	141	169
1.8	57	68	81	98	119	144	173
2.0	58	69	83	100	122	147	177
2.2	59	70	85	102	124	150	181
2.4	60	72	86	105	127	153	184
2.6	61	73	88	107	129	156	188
2.8	62	74	89	109	132	159	191
3.0	63	76	91	111	134	162	195

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

Table 1.5 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.5 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 20.0°C¹

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤ 6.0	6.5	7.0	7.5	8.0	8.5	≤ 9.0
≤0.4	36	44	52	62	74	89	105
0.6	38	45	54	64	77	92	109
0.8	39	46	55	66	79	95	113
1.0	39	47	56	67	81	98	117
1.2	40	48	57	69	83	100	120
1.4	41	49	58	70	85	103	123
1.6	42	50	59	72	87	105	126
1.8	43	51	61	74	89	108	129
2.0	44	52	62	75	91	110	132
2.2	44	53	63	77	93	113	135
2.4	45	54	65	78	95	115	138
2.6	46	55	66	80	97	117	141
2.8	47	56	67	81	99	119	143
3.0	47	57	68	83	101	122	146

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

The second table listed as Table 1.5 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 1.6 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Free Chlorine at 25.0°C¹ and higher

Free Residual (mg/L) Disinfectant Concentration	pH						
	≤6.0	6.5	7.0	7.5	8.0	8.5	≤ 9.0
≤0.4	24	29	35	42	50	59	70
0.6	25	30	36	43	51	61	73
0.8	26	31	37	44	53	63	75
1.0	26	31	37	45	54	65	78
1.2	27	32	38	46	55	67	80
1.4	27	33	39	47	57	69	82
1.6	28	33	40	48	58	70	84
1.8	29	34	41	49	60	72	86
2.0	29	35	41	50	61	74	88
2.2	30	35	42	51	62	75	90
2.4	30	36	43	52	63	77	92
2.6	31	37	44	53	65	78	94
2.8	31	37	45	54	66	80	96
3.0	32	38	46	55	67	81	97

¹These CT values achieve greater than a 99.99 percent inactivation of viruses. CT values between the indicated pH values may be determined by linear interpolation. CT values between the indicated temperatures of different tables may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature, and at the higher pH.

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

Table 2.1 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 2.1 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Chlorine Dioxide and Ozone¹

Disinfectant	Temperature					
	<1°C	5°C	10°C	15°C	20°C	≥25°C
Chlorine Dioxide	63	26	23	19	15	11
Ozone	2.9	1.9	1.4	0.95	0.72	0.48

¹These CT values achieve greater than 99.99 percent inactivation of viruses. CT values between the indicated temperatures may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} values at the lower temperature for determining CT_{99.9} values between indicated temperatures.

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

Table 3.1 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the table in its entirety and adding a new table so that as amended it shall read:

Table 3.1 - CT Values (CT_{99.9}) for 99.9 Percent Inactivation of Giardia lamblia Cysts by Chloramines¹

<1°C	Temperature				
	5°C	10°C	15°C	20°C	25°C
3,800	2,200	1,850	1,500	1,100	750

¹These values are for pH values of 6 to 9. These CT values may be assumed to achieve greater than 99.99 percent inactivation of viruses only if chlorine is added and mixed in the water prior to the addition of ammonia. If this condition is not met, the system must demonstrate, based upon on-site studies or other information, as approved by the State, that the system is achieving at least 99.99 percent inactivation of viruses. CT values between the indicated temperatures may be determined by linear interpolation. If no interpolation is used, use the CT_{99.9} value at the lower temperature for determining CT_{99.9} values between indicated temperatures.

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

Subpart (ii) Part 4 of subparagraph (b) of paragraph (5) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the existing language in its entirety and adding new language so that, as amended, subpart (ii) shall read:

- (ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The CT_{calc}/CT_{99.9} value of each sequence and the sum of

$$\frac{\sum CT_{calc}}{CT_{99,9}}$$

must be calculated using the method in paragraph (b)4.(i)(B) of this section to determine if the system is in compliance with disinfection requirements.

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

Part 4 of subparagraph (a) of paragraph (6) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the existing language in its entirety and adding new language so that, as amended, part (4) shall read:

4. No later than ten days after the end of each Federal fiscal year (September 30), each system must provide to the State a report which describes the on-site inspection conducted during that year pursuant to 1200-5-1-.31(2)(b)3, unless the on-site inspection was conducted by the State. If the inspection was conducted by the State, the State must provide a copy of its report to the public water system.

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

Subparagraph (c) of paragraph (8) of Rule 1200-5-1-.31 Filtration and Disinfection is amended by deleting the existing language in its entirety and adding new language so that as amended it shall read:

- (c) A system that uses chloramines, chlorine dioxide, or ozone for a primary disinfectant must calculate the logs of inactivation for viruses using a method approved by the department.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003. (10-33)

TENNESSEE STATE BOARD OF EQUALIZATION - 0600

There will be a hearing before the Tennessee State Board of Equalization to consider the amendment of rules pursuant to Tenn. Code Ann. §§67-1-305. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-204 and will take place in Room 29 of the Legislative Plaza, Nashville, Tennessee, at 10:30 a.m. on the 16th day of December, 2003.

Any individuals with disabilities who wish to participate in these proceedings should contact the Board to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Board's ADA Coordinator, Elaine Driver, at Ste. 1400, 505 Deaderick St., Nashville, TN 37243-0261 and tele. no. 615/401-7738.

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

SUBSTANCE OF PROPOSED AMENDMENT**CHAPTER 0600-4
ASSESSMENT CERTIFICATION AND EDUCATION PROGRAM**

Rule 0600-4-.02 is amended by deleting the words and figures “within the preceding ten (10) years “ in subparagraphs (b), (c), and (d) of paragraph (2) of the rule so that the subparagraphs as amended read as follows:

- (b) Must have received a passing grade on the examination for either the Laws and Essentials Course, or all the following courses offered by the University of Tennessee Center for Government Training (UTC GT): Legal Issues for Assessors of Property, Records Management for Assessors, and Management Skills for Assessors.
- (c) Must have received a passing grade on the examination for the Basic Mapping Course.
- (d) Must have received a passing grade on the IAAO examination for Course I – Fundamentals of Real Property Appraisal; or one comparable examination offered by a professional appraisal organization. (See 0600-4-.10)

Rule 0600-4-.03 is amended by deleting subparagraphs (1)(c) and (d) and substituting instead the following:

- (c) Must have received a passing grade on the IAAO examination for Course II-Income Approach to Valuation or one comparable examination offered by a professional appraisal organization (see 0600-4-.12)
- (d) Must have received a passing grade on the examination for the Advanced Mapping Course or IAAO Course 4 or Course 6.

Rule 0600-4-.04 is amended by deleting the words and figures “within the preceding ten (10) years “ in subparagraph (1)(c) so that the subparagraph as amended reads as follows:

- (c) Must have received a passing grade on one of the following IAAO courses: Course 3, Course 4, Course 6, Course 301, or Advanced Mapping. Equivalent courses offered by professional appraisal organizations will be considered on an individual basis.

Rule 0600-4-.04 is further amended by deleting the words and figures “within the preceding ten (10) years “ in paragraph (2) so that the paragraph as amended reads as follows:

- (2) In addition, the candidate must have:
 - (a) Received a passing grade on a narrative demonstration appraisal report related to residential property, submitted to the Division of Property Assessments and meeting the requirements of the IAAO, or
 - (b) Received a passing grade on a case study examination offered by the Division of Property Assessments addressing the recognized approaches to value on a single family residence.

- (c) Received a passing grade on a written comprehensive examination administered by the Division of Property Assessments.

Rule 0600-4-.05 is amended by deleting the words and figures “within the preceding ten (10) years “ in subparagraphs (c) and (d) of paragraph (1) of the rule so that the subparagraphs as amended read as follows:

- (c) Must have received a passing grade on IAAO Course 302. Equivalent courses offered by professional appraisal organizations will be considered on an individual basis.
- (d) Must have a passing grade on the examination for one of the following IAAO courses: 201, 202, 207, 3, 301, 4, 5, 6, or Advanced Mapping. Equivalent courses offered by professional appraisal organizations will be considered on an individual basis. No course for which certification credit was previously given may be used to meet this requirement.

Authority: T.C.A. §§67-1-305.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of October, 2003.
(10-42)

**DEPARTMENT OF HEALTH - 1200
TENNESSEE BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS**

There will be a hearing before the Tennessee Board of Alcohol and Drug Abuse Counselors to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 68-24-605. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE**AMENDMENT**

Rule 1200-30-1-.15, Disciplinary Actions and Civil Penalties, is amended by adding the following language as new paragraphs (2), (3) and (4), and renumbering the remaining paragraphs accordingly:

- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Alcohol and Drug Abuse Counselors

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's EMail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner

must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Alcohol and Drug Abuse Counselors

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's EMail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney’s EMail Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20 ____.

 Petitioner’s Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 68-24-605, and 68-25-606.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-49)

**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, 63-1-144, 68-29-103, 68-29-105, 68-29-109, 68-29-111, 68-29-113, 68-29-118, 68-29-126, 68-29-127, 68-29-128, 68-29-129, 68-29-136, and Public Chapter 102 of the Public Acts of 2003. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 30th day of December, 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 1200-6-1-.15 Personnel Licensure Discipline, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by adding the following language as subparagraph (1) (g), and is further amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (g) and the new paragraph (3) shall read:

- (1) (g) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 68-29-136.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 68-29-105, 68-29-109, 68-29-127, 68-29-128, 68-29-129, and 68-29-136.

Rule 1200-6-1-.15 Personnel Licensure Discipline, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by adding the following language as new paragraphs (2) and (3), and renumbering the remaining paragraphs accordingly:

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Tennessee Medical Laboratory Board

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s Email Address:_____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued to reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Tennessee Medical Laboratory Board

Petitioner’s Name: _____

Petitioner's Mailing Address:_____

Petitioner's Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 68-29-105, 68-29-109, 68-29-127, 68-29-128, and 68-29-129.

Rule 1200-6-1-.24 Qualifications and Duties of the Cytotechnologist, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) Qualifications - Each person examining cytology slide preparations must possess a current special analyst license as a cytotechnologist issued by the Board. To be eligible for that license the applicant must provide proof of national certification by a certifying agency approved by the Board. All applicants for

that license who were awarded national certification on or after August 1, 1988 must also submit proof that the certification was awarded based upon the applicant's possession of a baccalaureate degree earned at a regionally accredited college/university and cytology training from a school accredited by the Committee on Allied Health Education and Accreditation (CAHEA), Commission of Accreditation of Allied Health Education Programs (CAAHEP) or other accrediting body acceptable to the Board. Applicants whose national certification was awarded prior to August 1, 1988 need only submit proof that national certification was awarded regardless of the prerequisites upon which it was based.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-103, 68-29-105, and 68-29-118.

Rule 1200-6-3-.02 Licensing Procedures, is amended by deleting subparagraph (3) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3) (a) shall read:

- (3) (a) The license to operate the laboratory or collection station shall expire annually on the anniversary of the date that the license was originally issued.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-105, 68-29-111, and 68-29-113.

Rule 1200-6-3-.05 Licensure Discipline, Assessment of Costs, and Subpoenas, is amended by adding the following language as subparagraph (1) (f), and is further amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) and the new paragraph (3) shall read:

- (1) (f) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 68-29-136.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 68-29-105, 68-29-109, 68-29-126, 68-29-128, 68-29-129, and 68-29-136.

Rule 1200-6-3-.05 Licensure Discipline, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by adding the following language as new paragraphs (2) and (3), and renumbering the remaining paragraphs accordingly:

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or

- 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

- 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Tennessee Medical Laboratory Board

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner’s Email Address:-----
Telephone Number:-----
Attorney for Petitioner:-----
Attorney’s Mailing Address:-----

Attorney’s Email Address:-----
Telephone Number:-----

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative

Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Tennessee Medical Laboratory Board

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 68-29-105, 68-29-109, 68-29-126, 68-29-128, and 68-29-129.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of October, 2003. (10-18)

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

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 15th Floor, Puett Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30 p.m. CST on December 16, 2003.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Fran McKinney, at Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

For a copy of the proposed rule contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Citizens Plaza Building, 400 Deaderick Street, 15th Floor, Nashville, TN 37248, telephone number (615) 313-4731.

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

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

AMENDMENTS

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

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

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
165% of Poverty	\$1235	\$1667	\$2099	\$2530	\$2962	\$3394	\$3826	\$4257	\$4689	\$5121

Add \$432 for each additional person

Authority: TCA §§ 4-5-201 et seq.; T.C.A. §§ 71-1-105 and 71-3-158; 7 USC § 2014; and 7 CFR §§ 273.1, 273.1(b)(2), 273.9, and 273.10.

**CHAPTER 1240-1-3
NON-FINANCIAL ELIGIBILITY REQUIREMENTS**

AMENDMENTS

Rule 1240-1-3-. 43 Food Stamp Program Work Requirements, is amended to correct a typographical error, by inserting the word “by” after the word “program” and before the comma, in Part 5 under Subparagraph (b) of Paragraph (5), so that as amended, Paragraph (5), Subparagraph (b), Part 5, with subparts (i) through (iii) shall read:

5. has regained eligibility to participate in the food stamp program by, during a 30-day period:
 - (i) working 80 or more hours;
 - (ii) participating in and complying with the requirements of a work program for 80 or more hours, as determined by the Department; or
 - (iii) participating in and complying with the requirements of any state established work-fare program that may be implemented.

Authority: T.C.A. §§ 4-5-201 et seq.; 71-1-105(12), 71-5-304; 71-3-154(h); 7 USC § 2015(o); and 7 CFR § 273.7.

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

AMENDMENTS

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

TABLE I

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	\$973	\$1313	\$1654	\$1994	\$2334	\$2674	\$3014	\$3354	\$3695	\$4036

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	\$4377	\$4718	\$5059	\$5400	\$5741	\$6082	\$6423	\$6764	\$7105	\$7446

For each additional member add \$341

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

Table II

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Net Income	\$749	\$1010	\$1272	\$1534	\$1795	\$2057	\$2319	\$2580	\$2842	\$3104

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Maximum Net Income	\$3366	\$3628	\$3890	\$4152	\$4414	\$4676	\$4938	\$5200	\$5462	\$5724

For each additional member add \$262

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

Table III

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Coupon Allotment	\$141	\$259	\$371	\$471	\$560	\$672	\$743	\$849	\$955	\$1061

No. of Persons in Household	11	12	13	14	15	16	17	18	19	20
Maximum Coupon Allotment	\$1167	\$1273	\$1379	\$1485	\$1591	\$1697	\$1803	\$1909	\$2015	\$2121

For each additional member add \$106

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

Table IV-A
Standard Deduction

Household Size	1	2	3	4	5	6+
Standard Deduction	134	134	134	134	149	171

Table IV-B
Food Stamp Deductions

Maximum Dependent Care for Child Less than 2 Years of Age	\$200
Maximum Dependent Care for Child Over Age 2 or Adult	\$175
Maximum Shelter Deduction for Non-Elderly/Disabled Households	\$378
Maximum Shelter Deduction for Elderly/ Disabled Households	No Maximum

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2003. (10-41)

THE TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 63-18-211. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE

AMENDMENT

Rule 0870-1-.13, Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Tennessee Massage Licensure Board

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 - 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
- (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Tennessee Massage Licensure Board

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-18-206, 63-18-208, 63-18-209, and 63-18-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of October, 2003.
(10-25)

THE BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, 63-6-213, 63-6-214, 63-6-216, 63-24-107, and 63-24-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 5th Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0880-2-.12 Licensure Discipline and Civil Penalties, is amended by deleting subparagraph (1) (h) and (1) (j) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (k) in its entirety, and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraphs (1) (h) and (1) (j), and the new paragraphs (2) and (3) shall read:

- (1) (h) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (j) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-6-214.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following two (2) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why

compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Medical Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, 63-6-213, 63-6-214, 63-6-216.

Rule 0880-4-.15 Disciplinary Grounds, Actions, and Civil Penalties, is amended by adding the following language as new paragraphs (3) and (4):

- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s Email Address:_____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (4) Order Modifications – Shall be governed by rule 0880-2-.12.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, 63-6-213, 63-6-214, 63-6-216, 63-24-107, and 63-24-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-43)

**THE BOARD OF MEDICAL EXAMINERS - 0880
COMMITTEE ON PHYSICIAN ASSISTANTS**

There will be a hearing before the Tennessee Board of Medical Examiners' Committee on Physician Assistants to consider the promulgation of amendment to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, 63-19-104, 63-19-111, and 63-19-201. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0880-3-.15 Disciplinary Grounds, Actions and Civil Penalties, is amended by deleting subparagraphs (1) (g), (1) (i), and (1) (j) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3) and (4) and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraphs (1) (g), (1) (i) and (1) (j), and the new paragraphs (3) and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Committee and Board pursuant to paragraph (5) of this rule.
- (1) (i) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-19-104.
- (1) (j) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Committee and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph

(b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Committee and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners'
Committee on Physician Assistants

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Committee and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

- 5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Medical Examiners'
Committee on Physician Assistants

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20__.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, 63-19-104, and 63-19-111, and 63-19-201.

Rule 0880-10-.15 Disciplinary Grounds, Actions and Civil Penalties, is amended by deleting subparagraphs (1) (g), (1) (h), and (1) (i) in their entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3) and (4) and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraphs (1) (g), (1) (h) and (1) (i), and the new paragraphs (3) and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Committee and Board pursuant to paragraph (5) of this rule.
- (1) (h) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-19-104.
- (1) (i) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board and Committee will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

(iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or
- (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Committee and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners’
Committee on Physician Assistants

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, *et seq.*). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Committee and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Medical Examiners'
Committee on Physician Assistants

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-6-101, and 63-19-111, and 63-19-201.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003.
(10-28)

**BOARD OF MEDICAL EXAMINERS - 0880
COMMITTEE FOR CLINICAL PERFUSIONISTS**

There will be a hearing before the Tennessee Board of Medical Examiners' Committee for Clinical Perfusionists to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-6-101, 63-28-114, and 63-28-117. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 0880-11-.15 Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting subparagraph (2) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (3), (4) and (5), and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraph (2) (g) and the new paragraphs (3), (4) and (5) shall read:

- (2) (g) Civil penalty – A monetary disciplinary action assessed by the Committee and Board pursuant to paragraph (6) of this rule.
- (3) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (4) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (4) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Committee and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Committee and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners'
Committee for Clinical Perfusionists

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (5) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, *et seq.*). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Committee and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

- 5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Medical Examiners'
Committee for Clinical Perfusionists

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20 ____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-6-101, 63-28-114, and 63-28-117.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-50)

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

There will be a hearing before the Tennessee Board of Medical Examiners' Advisory Committee for Acupuncture to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-6-101, 63-6-1004, and 63-6-1007. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE

AMENDMENT

Rule 0880-12-.15 Disciplinary Actions and Civil Penalties, is amended by deleting subparagraphs (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2), (3) and (4) and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraph (1) (g) and the new paragraphs (2), (3) and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Committee and Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the certificate holder petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

- (a) The Committee and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a certificate previously revoked.
- (b) Procedures
1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Committee and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

- 5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Medical Examiners'
Advisory Committee for Acupuncture

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

 Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Committee and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

- 3. If the petition is presented to the Committee and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Committee or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
 Board of Medical Examiners'
 Advisory Committee for Acupuncture

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-6-101, 63-6-1004, and 63-6-1007.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-48)

THE TENNESSEE BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of amendment to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 1000-1-.04, Discipline Of Licensees; Unauthorized Practice of Professional Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, Declaratory Orders, and Assessment of Costs, is amended by deleting subparagraph (8) (a) and paragraph (10) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (8) (a) and the new paragraph (10) shall read:

- (8) (a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (e) providing all the necessary information; and
- (10) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-7-115.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-144, 63-7-115, 63-7-116, and 63-7-207.

Rule 1000-1-.04, Discipline Of Licensees; Unauthorized Practice of Professional Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, Declaratory Orders, and Assessment of Costs, is amended by adding the following language as new paragraphs (5) and (6) and renumbering the remaining paragraphs accordingly:

- (5) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Nursing

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (6) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Nursing

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-7-115, 63-7-116, and 63-7-207.

Rule 1000-2-.04, Discipline Of Licensees; Unauthorized Practice of Practical Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, Declaratory Orders, and Assessment of Costs, is amended by deleting subparagraph (8) (a) and paragraph (10) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (8) (a) and the new paragraph (10) shall read:

- (8) (a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (e) providing all the necessary information; and
- (10) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-7-115.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-144, 63-7-115, 63-7-116, and 63-7-207.

Rule 1000-2-.04, Discipline Of Licensees; Unauthorized Practice of Practical Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, Declaratory Orders, and Assessment of Costs, is amended by adding the following language as new paragraphs (5) and (6) and renumbering the remaining paragraphs accordingly:

- (5) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Nursing

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's EMail Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

- (6) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for

a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the

petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Nursing

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-7-115, 63-7-116, and 63-7-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-44)

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 2003.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas, is amended by deleting subparagraph (2) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (2) (h), and is further amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (g) and (2) (h), and the new paragraph (6) shall read:

- (2) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (6) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-16-115.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 63-1-144, 63-16-103, 63-16-108, 63-16-111, and 63-16-115.

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas, is amended by adding the following language as new paragraphs (3) and (4) and renumbering the remaining paragraphs accordingly:

- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Examiners for Nursing Home Administrators

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petition for Order Modification
Board of Examiners for Nursing Home Administrators

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-16-103, 63-16-108, and 63-16-111.

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of October, 2003. (10-39)

THE BOARD OF DISPENSING OPTICIANS - 0480

There will be a hearing before the Tennessee Board of Dispensing Opticians to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-14-101. 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 5th Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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, 1st Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 0480-1-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

- (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Dispensing Opticians

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Dispensing Opticians

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-14-101, 63-14-110, and 63-14-111.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of October, 2003. (10-32)

THE BOARD OF OPTOMETRY - 1045

There will be a hearing before the Tennessee Board of Optometry to consider the promulgation of amendments to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-8-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 1045-2-.10, Disciplinary Actions, Civil Penalties, Declaratory Orders, Assessment of Costs, and Subpoenas, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraph (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (4) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-8-120.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 63-1-144, 63-8-112, and 63-8-120.

Rule 1045-2-.10, Disciplinary Actions, Civil Penalties, Declaratory Orders, Assessment of Costs, and Subpoenas, is amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (2) and (3) shall read:

- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Optometry

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

 Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 - 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 - 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 - 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 - 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-8-112, and 63-8-120.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of October, 2003.
(10-36)

THE BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Tennessee Board of Osteopathic Examination to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-9-101, and 63-9-111. 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 5th Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE

AMENDMENT

Rule 1050-1-.10 Licensure Discipline and Civil Penalties, is amended by deleting subparagraph (1) (h) and (1) (j) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (k) in its entirety, and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraph accordingly, so that as amended, the new subparagraphs (1) (h) and (1) (j), and the new paragraphs (2) and (3) shall read:

- (1) (h) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (j) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-9-111.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following two (2) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Osteopathic Examination

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petition for Order Modification
Board Osteopathic Examination

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20 ____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-9-101, and 63-9-111.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of October, 2003.
(10-35)

**BOARD OF OSTEOPATHIC EXAMINATION'S - 1050
COUNCIL OF CERTIFIED PROFESSIONAL MIDWIFERY**

There will be a hearing before the Tennessee Board of Osteopathic Examination's Council of Certified Professional Midwifery to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-9-101, 63-29-107, 63-29-114, and 63-29-116. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 1050-3-.15 Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Council and the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Council after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Council and Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a certificate previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Council's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Council's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Council as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Council and Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-11.

(c) Form Petition

Petition for Order of Compliance
Board of Osteopathic Examination's
Council of Certified Professional Midwifery

Petitioner's Name:_____

Petitioner's Mailing Address:_____

Petitioner's Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney's Mailing Address:_____

Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Council's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Council and Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Council and Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Council's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Council authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Council as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Council and Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Council and Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Council or Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
 Board of Osteopathic Examination's
 Council of Certified Professional Midwifery

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-9-101, 63-29-107, 63-29-114, and 63-29-116.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of October, 2003.
 (10-23)

BOARD OF REGISTRATION IN PODIATRY - 1155

There will be a hearing before the Tennessee Board of Registration in Podiatry to consider the promulgation of amendments to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-3-106. 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. (CST) on the 23rd day of December, 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 1155-2-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (2), (3) and (4), and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraph (1) (g) and the new paragraphs (2), (3), and (4) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears

before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.

- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Registration in Podiatry

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Registration in Podiatry

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20 ____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-3-106, 63-3-119, and 63-3-120.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of October, 2003. (10-53)

BOARD OF EXAMINERS IN PSYCHOLOGY - 1180

There will be a hearing before the Tennessee Board of Examiners in Psychology to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-11-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE

AMENDMENT

Rule 1180-1-.10, Disciplinary Grounds, Actions, Civil Penalties, Settlements, and Screening Panels, is amended by adding the following language as new paragraphs (3), (4), and (5) and renumbering the remaining paragraphs accordingly:

- (3) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (4) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (4) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Examiners in Psychology

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner’s Signature

- (5) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

- (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

**Petition for Order Modification
Board of Examiners in Psychology**

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of ____, 20____.

Petitioner's Signature

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-11-104, and 63-11-215.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003. (10-46)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 RULE

AMENDMENT

Rule 1330-1-.15, Disciplinary Grounds, Actions, and Civil Penalties, is amended by deleting subparagraph (2) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (2) (h), and is further amended by adding the following language as new paragraphs (3) and (4) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (2) (g) and (2) (h), and the new paragraphs (3) and (4) shall read:

- (2) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Respiratory Care

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

- (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Respiratory Care

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

 Attorney's Email Address:_____

Telephone Number:_____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-27-104, and 63-27-112.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of October, 2003. (10-26)

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, and 63-23-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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, 1st Fl., Cordell Hull Building, 425 5th Ave. North, Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULE**AMENDMENT**

Rule 1365-1-.15, Disciplinary Actions, Civil Penalties, and Declaratory Orders, is amended by deleting subparagraph (1) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (1) (h), and is further amended by adding the following language as new paragraphs (2) and (3) and renumbering the remaining paragraphs accordingly, so that as amended, the new subparagraphs (1) (g) and (1) (h), and the new paragraphs (2) and (3) shall read:

- (1) (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
- (1) (h) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance.

The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Social Worker Certification and Licensure

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney’s Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20 ____.

 Petitioner’s Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board’s Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

**Petition for Order Modification
Board of Social Worker Certification and Licensure**

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-23-106, and 63-23-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of October, 2003. (10-24)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Occupational Therapy to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 1150-2-.15, Disciplinary Actions, Civil Penalties, and Screening Panels, is amended by adding the following language as new paragraphs (2), (3) and (4) and renumbering the remaining paragraphs accordingly:

- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Committee will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that

submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Committee the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the Committee finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
- 5. If the petition is denied either initially by staff or after presentation to the Committee and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
 Board of Occupational and Physical Therapy Examiners’
 Committee of Occupational Therapy

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner’s Email Address:_____

Telephone Number:_____

Attorney for Petitioner:_____

Attorney’s Mailing Address:_____

Attorney’s Email Address:_____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Committee will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Committee the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Committee and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
 Board of Occupational and Physical Therapy Examiners’
 Committee of Occupational Therapy

Petitioner’s Name:_____

Petitioner’s Mailing Address:_____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of ____, 20 ____.

 Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-13-108, and 63-13-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of October, 2003. (10-38)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Occupational Therapy to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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 Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 1150-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-13-313.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 63-1-144, 63-13-108, 63-13-304, 63-13-312, and 63-13-313.

Rule 1150-2-.15, Disciplinary Actions, Civil Penalties, and Screening Panels, is amended by adding the following language as new paragraphs (2), (3) and (4) and renumbering the remaining paragraphs accordingly:

- (2) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Committee after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Committee will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Committee's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Committee's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Committee as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Committee the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Committee finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Committee and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Occupational and Physical Therapy Examiners'
Committee of Occupational Therapy

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. The Committee’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of _____, 20____.

 Petitioner’s Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Committee orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Committee will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term “impossible” does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Committee’s Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance

is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

- 2. The Committee authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Committee as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
- 3. If the petition is presented to the Committee the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Committee that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by staff or after presentation to the Committee and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
 Board of Occupational and Physical Therapy Examiners'
 Committee of Occupational Therapy

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's Email Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____, 20____.

Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-13-108, and 63-13-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of October, 2003. (10-37)

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules 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 5th Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of December, 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, go to the Department of Health's web page at www.tennessee.gov/health and click on "rulemaking hearings" or contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 5th Ave. N., 1st Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUMMARY OF PROPOSED RULES

AMENDMENTS

The proposed rule amendments are substantially the same in all of these rules:

1. Rule 1730-1-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels
2. Rule 1730-2-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels
3. Rule 1730-3-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels
4. Rule 1730-4-.12 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels
5. Rule 1730-5-.12 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels

There are four (4) changes being proposed:

1. Each rule will substitute the following language for the present language regarding assessment of costs: Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-12-143.
2. Each rule will add the following language: Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph () of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met.
3. Each rule will include the following language and a petition form regarding an Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 1. The petitioner shall submit a Petition for Order of Compliance, to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and

- (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 - 3. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 - 4. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (4) Each rule will include the following language and a petition form regarding Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 - 1. The petitioner shall submit a written and signed Petition for Order Modification to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossi-

bility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
3. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
4. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-144, 63-12-105, 63-12-106, 63-12-124, 63-12-128, and 63-12-143.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of October, 2003.
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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 October 1, 2003 and ending October 31, 2003


RILEY C. DARNELL
Secretary of State

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