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TENNESSEE ADMINISTRATIVE REGISTER



April 15, 2004
Volume 30, Number 4

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RILEY C. DARNELL
Secretary of State

Division of Publications
8th Floor, Snodgrass Tower
312 8th Avenue North
Nashville TN 37243 - 0310

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Equal Employment Opportunity/Affirmative Action inquiries or complaints should be directed to the Department of State, Bard G. Fisher, EEO/AA Coordinator, 7th Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN, 37243-0311 or call (615) 741-7411, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299. ADA inquiries or complaints should be directed to Mr. Fisher at the above mentioned location.

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A certified copy of each document filed with the Department of State, Division of Publications is available for public inspection from 8 A.M. to 4:30 P.M., Monday through Friday. Copies of documents may be made at a cost of 25 cents per page and \$2 for the certification page, payable in advance if requested. The Division of Publications is located on the Eighth Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN 37243 - 0310. Telephone inquiries may be made by calling (615) 741-0522, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299. Individuals with disabilities who wish to inspect these filings should contact the Division of Publications to discuss any auxiliary aids or services needed to facilitate such inspection. Such contact may be made in person, by writing, telephonically or otherwise and should be made at least ten (10) days in advance of the date such party intends to make such inspection to allow time for the Division of Publications to provide such aid or service.

Department of State, Authorization No. 305197, 220 copies, April 2004. This public document was promulgated at a cost of \$ 2.50 per copy.

PREFACE

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

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

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

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

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

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

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

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

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

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ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

1. Petitioner's Name: Joe B. England
2. Petitioner's: Joe B. England
Address: 175 England Circle
Sparta, TN 38583
Telephone Number: 931-761-2685

3. Background:

On February 2, 2004 the Department of Environment and Conservation issued a Aquatic Resource Alteration Permit (ARAP) to the Upper Cumberland Regional Airport for the construction of the airport expansion, which will involve the placement of fill in three wetlands totaling 10.08 acres. Compensatory wetland mitigation will occur at the Gum Springs mitigation Site and the Breeding Swamp Road Mitigation site.

4. Summary of the relief requested:

The Petitioner has requested a ruling from the Board that this ARAP violates the Tennessee Water Quality Control Act, T.C.A. §69-3-101 *et seq* and Tennessee's Antidegradation Statement, Administrative Rule 1200-4-3-.06.

The Board will convene a contested case hearing in this matter on May 8-19, 2004

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests.

Your petition must be filed with: Tennessee Secretary of State
Administrative Procedures Division
312 8th Avenue, North
8th Floor, William R. Snodgrass Bldg.
Nashville, TN 37243

Copies must also go to:

Patrick N. Parker
Tennessee Dept. of Environment & Conservation
Office of General Counsel
401 Church Street
20th Floor L&C Tower
Nashville, TN 37243-1548

Dale Allen
Colbert & Winsted
1812 Broadway
Nashville, TN 37203

(03-13)
March 30, 2004

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

**PETITION FOR DECLARATORY ORDER
NOTICE OF HEARING**

(As required Under T.C.A. §4-5-224)

1. Petitioner's Name: Sierra Club, et. al.
2. Petitioner's Attorneys: Mary Mastin
Address: 360 Roberts Hollow Ln.
Cookeville, TN 38501
Telephone Number: 931-268-2938
3. Background:

On February 2, 2004 the Department of Environment and Conservation issued a Aquatic Resource Alteration Permit (ARAP) to the Upper Cumberland Regional Airport for the construction of the airport expansion, which will involve the placement of fill in three wetlands totaling 10.08 acres. Compensatory wetland mitigation will occur at the Gum Springs mitigation Site and the Breeding Swamp Road Mitigation site.

4. Summary of the relief requested:

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Nashville, TN 37243-1548

Dale Allen
Colbert & Winsted
1812 Broadway
Nashville, TN 37203

(03-12)
March 30, 2004

THE 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.

Kevin P. Lavender

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

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of May 2004 is 8.78 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 4.78 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.

Kevin P. Lavender

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 previous month. 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.

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-03	March 12, 2004	0780 Commerce and Insurance Fire Prevention Codes Enforcement Section	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-2-4 New Manufactured Homes and Recreational Vehicles</i></p> <p>0780-2-4-.01 Definitions 0780-2-4-.02 Licensing Requirements for Manufacturers 0780-2-4-.03 Licensing Requirements for Retailers 0780-2-4-.04 Licensing Requirements for Installers 0780-2-4-.05 Adoption by Reference of Standards 0780-2-4-.06 Fees for Enforcement of Federal Standards 0780-2-4-.07 Certificates of Compliance 0780-2-4-.08 Inspections 0780-2-4-.09 Responsibilities of Retailers 0780-2-4-.10 Removal of Decals 0780-2-4-.11 Red Tags 0780-2-4-.12 Acceptable Course Topics 0780-2-4-.13 Continuing Education</p> <p><i>Chapter 0780-2-5 Stabilizing of Manufactured Homes</i></p> <p>0780-2-5-.01 Definitions 0780-2-5-.02 Adoption by Reference of Standards 0780-2-5-.03 Approval of Anchoring- Stabilizing Systems 0780-2-5-.04 Permits and Inspections</p> <p><i>Chapter 0780-2-8 Used Factory-Manufactured Homes</i></p>	Christy A. Allen Regulatory Boards and Fire Prevention Office of Legal Counsel 500 J Robertson Pkwy Davy Crockett Twr, 5th Fl Nashville TN 37243 (615) 741-3072	May 26, 2004
03-05	March 19, 2004	0780 Commerce and Insurance Division of Fire Prevention Codes Enforcement Section	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-2-2 Codes and Standards</i></p> <p>0780-2-2-.01 Adoption by Reference 0780-2-2-.04 Conflicts</p>	Scott M. Ledford Staff Attorney Commerce and Insurance 500 James Robertson Pkwy Davy Crockett Twr 5th Fl Nashville TN 37243 (615) 741-3072	June 2, 2004

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-08	March 25, 2004	0080 Agriculture Regulatory Services	Emergency Rules	New rule	<i>Chapter 0080-6-1</i> <i>Rules and Regulations Governing</i> <i>Nurses Dealers and Agents</i>	Gray Haun Agriculture P.O. Box 40627 Nashville TN 37204 615-837-5338	March 25, 2004 through September 6, 2004
03-15	March 30, 2004	1200 Health Health Services Administration Communicable and Environmental Disease Services	Proposed Rules	Repeal and New Chapter	<i>Chapter 1200-14-4</i> <i>Disease Control Health Threat</i> <i>Procedures</i> 1200-14-4-.01 Introduction 1200-14-4-.02 Definitions 1200-14-4-.03 Reporting a Health Threat to Others 1200-14-4-.04 Health Directive 1200-14-4-.05 Temporary Hold in Emergency Situations 1200-14-4-.06 Petition to the Court for a Public Health Measure 1200-14-4-.07 Commitment to the Custody of the Commissioner 1200-14-4-.08 Patient Bill of Rights	Richard F. Russell Health OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 (615) 741-1611	July 29, 2004
03-16	March 30, 2004	1200 Health Health Services Administration Communicable and Environmental Disease Services	Proposed Rules	Amendments	<i>Chapter 1200-14-4</i> <i>Disease Control Health Threat</i> <i>Procedures</i> 1200-14-4-.01 Introduction 1200-14-4-.02 Definitions 1200-14-4-.03 Reporting a Health Threat to Others 1200-14-4-.04 Health Directive 1200-14-4-.05 Temporary Hold in Emergency Situations 1200-14-4-.06 Petition to the Court for a Public Health Measure 1200-14-4-.07 Commitment to the Custody of the Commissioner 1200-14-4-.08 Patient Bill of Rights	Richard F. Russell Health OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 (615) 741-1611	July 29, 2004

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-17	March 31, 2004	1700 Treasury Tennessee Baccalaureate Education System Trust Board	Proposed Rules	Amendments	<i>Chapter 1700-5-1 Tennessee Baccalaureate Education System Trust</i> 1700-5-1-.05 Purchase of Tuition Units	Mary Krause General Counsel Treasury 10th Fl A Jackson Bldg Nashville TN 37243 (615) 741-7063	July 29, 2004
03-18	March 31, 2004	1700 Treasury Tennessee Baccalaureate Education System Trust Board	Proposed Rules	Amendments	<i>Chapter 1700-5-2 Tennessee Baccalaureate Education System Trust Educational Savings Plan</i> 1700-5-2-.05 Contributions	Mary Krause General Counsel Treasury 10th Fl A Jackson Bldg Nashville TN 37243 (615) 741-7063	July 29, 2004

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

Applications will be heard at the May 26, 2004 Health Services and Development Agency Meeting
(except as otherwise noted)

**Denotes applications being placed on the Consent Calendar.
+Denotes applications under simultaneous review.*

This is to provide official notification that the Certificate of Need applications listed below have begun the review cycle effective March 1, 2004. 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.

* Consent Calendar Applications will be heard at the April 28, 2004 Meeting.

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

NAME AND ADDRESS

DESCRIPTION

*Asbury Place at Johnson City
400 North Boone Street
Johnson City (Washington County), TN 37604
CN0402-015
Contact Person: Jerry W. Taylor, Esq.
Phone No. 615-726-1200

The establishment of an eighty-four (84) bed partial replacement facility to be located on the site of, and be physically connected to, the existing nursing facility at 400 North Boone Street, Johnson City (Washington County), Tennessee, 37604. The remaining 84 currently licensed beds will continue to be operated in the existing facility.
\$ 4,690,000.00

*NHC HealthCare, Nashville
2215 Patterson Street
Nashville (Davidson County), TN 37203
CN0402-014
Contact Person: Bruce K. Duncan, Asst. Vice-President,
Planning/Licensure
Phone No. 615-890-2020

The construction of a nursing home replacement facility on the existing site at 2215 Patterson Street in Nashville (Davidson County), TN. The center will be comprised of the existing licensed one hundred twenty-four (124) dually certified nursing home beds.
\$ 10,060,500.00

NAME AND ADDRESS

DESCRIPTION

Arbor Place of Puryear, Inc.
 215 College Street
 Puryear (Henry County), TN 38251-0306
 CN0311-098
 Contact Person: Pat Sells, President/CEO
 Phone No. 573-471-5800

The relocation and replacement of an existing twenty-five (25) bed dually certified skilled nursing facility (SNF) from 223 Chestnut, Puryear, Tennessee to a newly constructed facility located at 215 College Street, Puryear, Tennessee. Also, the addition of eleven (11) dually certified SNF beds have been requested; however, there are only seven (7) beds left in the nursing home bed pool. If approved the facility would contain a total of thirty-two (32) licensed beds.
 \$ 3,100,252.00

Tennessee PET Scan Center, LLC
 1020 North Highland Avenue
 Murfreesboro (Rutherford County), TN 37130
 CN0401-006
 Contact Person: William H. West, Esq.
 Phone No. 615-726-5600

The replacement of a previously approved positron emission tomography (PET) scanner to a combination PET and computerized tomography (CT) scanner. This project is also for the relocation of the outpatient diagnostic center (ODC) from 520 Highland Terrace, Suite D, Murfreesboro to 1020 North Highland Avenue, Murfreesboro, Tennessee.
 \$ 2,739,916.00

+Tenn SM, LLC d/b/a Tennessee Sports Medicine
 Uncle Herschel Boulevard (address not assigned)
 Mt. Juliet (Wilson County), TN 37122
 CN0402-009
 Contact Person: Kim Harvey Looney, Esq.
 Phone No. 615-259-1478

The initiation of magnetic resonance imaging (MRI) services limited to orthopaedic patients of Tennessee Sports Medicine. The site will be located on Uncle Herschel Boulevard (no address has been assigned) at the corner of Mt. Juliet Road and Adams Lane in Mt. Juliet, Wilson County, Tennessee. There will be no licensure required of this project.
 \$ 2,119,180.00
 Wilson County MRI – CN0402-018, filed a simultaneous review application.

Functional Independence, Inc.
 2725 South Mendenhall, Suite 16
 Memphis (Shelby County), TN 38117
 CN0402-010
 Contact Person: Nachele Hubbard, COO
 Phone No. 901-546-7660

The establishment of a home care organization and the initiation of home health services to provide services to the residents of Shelby, Fayette and Tipton counties. The parent office will be located at 2725 Mendenhall, Suite 16, Memphis (Shelby County), TN 38117.
 \$ 40,837.00

NAME AND ADDRESS	DESCRIPTION
<p>Cape Surgery Center 401 Tickle Street, East Dyersburg (Dyer County), TN 38024 CN0402-011 Contact Person: John L. Wellborn, Consultant Phone No. 615-665-2022</p>	<p>The establishment of a single-specialty ambulatory surgical treatment center (ASTC) and initiation of outpatient ophthalmic surgery at 401 Tickle Street, East, Dyersburg, Tennessee 38024. This facility will occupy 2,700 SF of newly constructed leased space at the Cape Regional Eye Center (an existing medical office building), and will share 1,584 SF of existing support space. The ASTC will have one (1) operating room and will be licensed as an ASTC limited to ophthalmic surgery. \$ 886,141.00</p>
<p>Doctors Regional Medical Group 100 William Northern Boulevard Tullahoma (Coffee County), TN 37388 CN0402-012 Contact Person: John Wellborn, Consultant Phone No.: 615-665-2022</p>	<p>The acquisition of a fixed magnetic resonance imaging (MRI) 1.5T short bore unit and the initiation of in-office MRI services limited to the patients of Doctors Regional Medical Group. The unit will be located in 800 SF of renovated leased space within the Family Practice Center building at 100 William Northern Boulevard, Tullahoma, TN 37388. This project will not require licensure. \$ 1,354,581.00</p>
<p>Behavioral Healthcare Center at Martin 640 Hannings Lane Martin (Weakley County), TN 38237 CN0402-013 Contact Person: Robert F. Dendy, Vice President Phone No. 615-369-0875</p>	<p>The establishment of an eighteen (18) bed mental health hospital and the initiation of inpatient psychiatric services, focusing on the geriatric psychiatric patient. The hospital will be in leased space in a physically distinct wing of Van Ayer Manor Nursing Center, located at 640 Hannings Lane, Martin (Weakley County), Tennessee. Van Ayer Manor will de-license nineteen (19) of its licensed nursing home beds as a component of this project. The beds will be licensed as mental health hospital beds by the Tennessee Department of Mental Health and Developmental Disabilities. \$ 1,410,000.00</p>
<p>Middle Tennessee Imaging, LLC 741 President Place Smyrna (Rutherford County), TN 37167 CN0402-016 Contact Person: E. Graham Baker, Jr., Esq. Phone No. 615-383-3332</p>	<p>The establishment of a freestanding outpatient diagnostic center (ODC) including the acquisition of MRI, leased CT, and other diagnostic imaging equipment, including one (1) MRI already owned by the applicant. The initiation of these diagnostic imaging services will be provided in 6,500 GSF of existing space located at 741 President Place, Smyrna, Tennessee 37167. Outpatient diagnostic centers do not require licensure. \$ 3,981,258.00</p>

NAME AND ADDRESS

DESCRIPTION

Skyline Medical Center
 3441 Dickerson Pike
 Nashville (Davidson County), TN 37207
 CN0402-017
 Contact Person: John L. Wellborn, Consultant
 Phone No. 615-665-2022

The discontinuance of obstetrics (OB) services. The OB unit's six (6) LDRP obstetrical beds will be reassigned to general medical-surgical beds. The licensed bed complement for the hospital will remain at one hundred ninety-four (194) hospital beds and eight (8) skilled care nursing home beds.
 \$ 20,000.00

+Wilson County MRI
 Lebanon Market Place
 Lebanon (Wilson County), TN
 CN0402-018
 Contact Person: John Wellborn, Consultant
 Phone No. 615-665-2022

The establishment of an outpatient diagnostic center (ODC), the acquisition of a magnetic resonance imaging (MRI) unit, and the initiation of outpatient MRI services. The site is an unaddressed site in the Lebanon Market Place project being developed in the northeast quadrant of the intersection of Franklin Road and South Hartmann Drive. The self-contained ODC facility will be developed in 3,000 SF of leased space in a new building to be constructed at that location by a third-party developer. Facility licensure is not required.
 \$ 1,865,000
 Filed as a simultaneous review application with Tenn SM, LLC d/b/a Tennessee Sports Medicine – CN0402-009.

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EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0940 - Department of Mental Health and Health Developmental Disabilities - Office of Licensure - Emergency licensure rules covering personal support services agencies, chapter 0940-5-36 Personal Support Services, 1 T.A.R. (January 2004) - Filed December 9, 2003; effective through May 22, 2004. (12-12)

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

CHAPTER 0080-6-1 **RULES AND REGULATIONS GOVERNING NURSERIES DEALERS AND AGENTS**

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to Tenn. Code Ann. § 4-5-208, the Tennessee Department of Agriculture's Regulatory Services Division, Plant Certification Section is promulgating the following emergency rules to stop the movement of certain varieties of nursery stock into the state of Tennessee which are derived from the state of California. These emergency rules are necessary for the department to fulfill its charge to protect the agricultural, horticultural and silvicultural interests of the State of Tennessee. Tennessee Code Annotated Section 43-6-106 authorizes the commissioner to declare quarantines.

There is an immediate threat to the health of our nurseries and hardwood forests due to the possible distribution of plant material that may be contaminated with the plant pathogen *Phytophthora ramorum*, better known as Sudden Oak Death from the state of California. The following emergency rules are necessary to protect the health of uninfected plants and trees within the State of Tennessee and to negate or minimize the potential adverse economic implications to Tennessee's nursery industry and timber industry.

For copies of the entire text of the proposed amendment contact Gray Haun, Plant Certification Administrator, Regulatory Services Division, Department of Agriculture, P.O. Box 40627, Nashville, Tennessee, 37204, 615-837-5338.

Ken Givens, Commissioner
Department of Agriculture

NEW RULE**0080-6-1-.16 NURSERY STOCK RESTRICTIONS**

- (1) Until such time as the State of California and the United States Department of Agriculture (USDA) develop an expanded quarantine area to account for all new detections of *Phytophthora ramorum* (Sudden Oak Death) and until the California Department of Agriculture declares suspect California nursery stock free of the pathogen, the following prohibitions for nursery stock listed by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection Quarantine as “Regulated and Associated Plants for *Phytophthora ramorum*” (Sudden Oak Death, APHIS 3/12/2004, attached to this rule, or as published at www.aphis.usda.gov/ppq/ispm/sod , whichever is the most current) shall remain in effect:
 - (a) All nursery stock identified as provided in this section originating and/or shipped from the State of California shall not enter into the State of Tennessee.
 - (b) Nurseries and plant dealers within Tennessee who have received shipments of nursery stock identified as provided in this section from the State of California are hereby prohibited from selling, moving, or transporting this nursery stock until released by the Commissioner.
 - (c) Nursery stock identified as provided in this section that is to be used for experimental or scientific purposes may be exempted from this regulation with the possession of a valid USDA-APHIS-PPQ Plant Pest permit. This material is subject to examination and release by the Commissioner.
- (2) Upon the completion of the requirements stipulated in the opening paragraph of this Section, all nursery stock listed by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection Quarantine as “Regulated and Associated Plants for *Phytophthora ramorum*” (Sudden Oak Death, APHIS 3/12/2004, attached to this rule, or as published at www.aphis.usda.gov/ppq/ispm/sod , whichever is the most current) must be accompanied by a Phytosanitary Certificate issued by the State of California. Such Phytosanitary Certificate must provide an additional declaration that, “The plant material in this consignment has been produced in a production site free of sudden oak death disease, *Phytophthora ramorum*, and conforms to the USDA SOD-Free Nursery Stock Program.”
- (3) Any plants found to have been transported or moved in violation of these regulations shall be destroyed under the direction of the Commissioner. Failure to comply with this emergency rule may result in the assessment of a civil penalty for each plant in violation of this quarantine and/or suspension or revocation of plant dealer and nursery certificates issued by the department to persons responsible for the movement or sale in violation. Violations may result in criminal prosecution as provided in Tenn. Code Ann. §§ 43-6-106 and 43-6-112.

Authority: T.C.A.. §§43-6-101 through 43-6-112; 43-1-703; and 4-3-204.

The emergency rules set out herein were properly filed in the Department of State on the 25th day of March, 2004, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the day 6th day of September, 2004. (03-08)

PROPOSED RULES

THE TENNESSEE DEPARTMENT OF HEALTH - 1200 HEALTH SERVICES ADMINISTRATION COMMUNICABLE AND ENVIRONMENTAL DISEASE SERVICES

CHAPTER 1200-14-1 COMMUNICABLE AND ENVIRONMENTAL DISEASES

Presented herein are proposed amendments of the Department of Health, Health Services Administration, Communicable and Environmental Disease Services, submitted pursuant to Tennessee Code Annotated § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Bureau of Health Services Administration, Communicable and Environmental Disease Services, to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Office of Communicable and Environmental Disease Services on the 4th Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee, 37247, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee, 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed rule amendments contact: Connie Yates, Tennessee Department of Health, 4th Floor, Cordell Hull Building, 425 5th Avenue, North, Nashville, Tennessee 37247, Phone: (615) 532-8490

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (c), is amended by deleting the existing subparagraph in its entirety and substituting instead the following:

- (c) Carrier - A person who harbors, or who the Commissioner, health officer, or designee reasonably believes harbors, a specific pathogenic organism and who is potentially capable of spreading the organism to others, whether or not there are presently discernible signs and symptoms of the disease.

Authority: *T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.*

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (g), is amended by deleting the existing subparagraph in its entirety and substituting instead the following:

- (g) Contact - Any person or animal known to have been in such association with a person or animal reasonably suspected of being infected with a disease-causing agent as to have had the opportunity of acquiring the infection.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (m), is amended by deleting the existing subparagraph in its entirety and substituting instead the following:

- (m) Epidemic (or Disease Outbreak) - The occurrence in a community or region of one or more cases of illness that is in excess of normal expectancy.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (x), is amended by deleting the existing subparagraph in its entirety and substituting instead the following:

- (x) Isolation - The separation for the period of communicability of infected persons, or persons reasonably suspected to be infected, from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to other persons who are susceptible or who may spread the agent to others.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (aa), is amended by deleting the word “hospitalization” contained in the first sentence and substituting in its place the term “medical care”, so that the first sentence, as amended, shall read:

- (aa) Medically Indigent Person – A person is considered to be medically indigent when such person can demonstrate to the Commissioner that he or the person legally liable for his support is unable to pay in whole or in part the charge for medical care without materially affecting their economic support or obligations or responsibilities to dependents.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (ee), is amended by deleting the existing subparagraph in its entirety and substituting instead the following:

- (ee) Quarantine - Limitation of freedom of movement or isolation of a person, or preventing or restricting access to premises upon which the person, cause or source of a disease may be found, for a period of time as may be necessary to confirm or establish a diagnosis, to determine the cause or source of a disease, and/or to prevent the spread of a disease. These limitations may be accomplished by placing a person in a health care facility or a supervised living situation, by restricting a person to the person’s home, or by establishing some other situation appropriate under the particular circumstances.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (jj), part 2., is amended by deleting the term “infectious agent” and substituting in its place the term “disease-causing agent”, so that the part, as amended, shall read:

2. Vehicle: Water, food, milk, biological products to include serum and plasma, or any substance or article serving as an intermediate means by which the disease-causing agent is transported from a reservoir and introduced into a susceptible host through ingestion, through inoculation or by deposit on skin or mucous membrane.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.01, Definition of Terms, paragraph (1), subparagraph (kk), is amended by deleting the subparagraph in its entirety, inserting a new subparagraph (gg), renumbering the existing subparagraph (gg), Source of Infection, as (hh), and renumbering all subsequent subparagraphs accordingly. New subparagraph (gg) shall read as follows:

- (gg) Sexually Transmitted Disease - A disease or infection that may be transmitted sexually, although this may not be the exclusive mode of transmission.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), subparagraph (l), is amended by deleting the existing part 3. in its entirety and substituting instead the following:

3. Unusual occurrence or cluster of all other diseases or syndromes

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), is amended by deleting the existing subparagraph (ddd) in its entirety and substituting instead the following:

- (ddd) Active Tuberculosis, all forms*

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), is amended by inserting a new, appropriately numbered subparagraph () and renumbering the remaining subparagraphs accordingly. The new, appropriately numbered subparagraph shall read as follows:

- () Severe Acute Respiratory Syndrome-associated coronavirus (SARS-CoV) disease*

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.06, Duties of Physicians, is amended by deleting the existing rule in its entirety and substituting instead the following:

1200-14-1-.06 DUTIES OF PHYSICIANS.

- (1) It shall be the duty of the attending physician, immediately upon discovering a case or suspected case of communicable disease to inform the head of the household and appropriate healthcare facility personnel of this fact and to instruct these persons of such isolation of the patient and concurrent disinfection as may be necessary to prevent spread of the infection. It shall be the duty of persons so informed to comply with such instructions unless otherwise instructed by the local health officer or his authorized agent. Provided, this regulation shall be construed to mean that only a physician, or other person/or persons duly authorized by applicable state law, has the authority to establish quarantine, or isolation, or remove established quarantine or isolation restrictions for communicable diseases.
- (2) It shall be the duty of physicians to comply with disease control measures established by the Department to contain and control disease outbreaks that threaten the public health.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.15, General Measures for the Effective Control of Communicable Diseases, is amended by deleting the existing rule in its entirety, and substituting instead the following:

1200-14-1-.15 GENERAL MEASURES FOR THE EFFECTIVE CONTROL OF DISEASE OUTBREAKS.

- (1) It shall be the duty of the local health officer or the Commissioner or his designated representative, on receiving a report of a communicable disease, or of a suspected epidemic of disease or of a suspected case of a disease of public health significance to:
 - (a) Confer with the physician, laboratory, hospital, or person making the report;
 - (b) Collect such specimens for laboratory examination as may be necessary to confirm the diagnosis of the disease and/or to find the source of the infection or the epidemic;
 - (c) Obtain all names and information necessary to identify and contact all persons potentially exposed to the source of the disease outbreak as needed to protect the public health;
 - (d) Make a complete epidemiological investigation to include (but not limited to): review of appropriate medical and laboratory records of affected persons and controls, interviews of affected persons and controls, and recording of the findings on a communicable disease field record; and
 - (e) Establish appropriate control measures which may include examination, treatment, isolation, quarantine, exclusion, disinfection, immunization, disease surveillance, closure of establishment, education, and other measures considered appropriate by medical experts for the protection of the public's health.
- (2) Medical and relevant non-medical records and information shall be made available when requested, for inspection and copying of, by a duly authorized representative of the Department while in the course of investigating a disease under these regulations. The original records shall not be removed from the facility and any information obtained shall be treated as confidential and sensitive.
- (3) For the purpose of this section, appropriate medical experts shall mean the latest edition of the Report of the Committee on Infectious Diseases of the American Academy of Pediatrics or the Control of Communicable Diseases Manual by the American Public Health Association (latest edition). Consideration will also be given to recommendations of the Advisory Committee on Immunization Practices (ACIP) and

other current recommendations issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. Additionally, information provided directly from the Department by the Division of Communicable Disease Control or the Division of Tuberculosis Control shall be considered appropriate control measures for the protection of public health and may be used instead of the other cited references.

- (4) Access to information necessary for the effective control of diseases: In the event an entity or person does not cooperate with the local health officer, Commissioner, or his designated representative by providing records or other information necessary to carry out the purposes of these Rules and/or 1200-14-4 et seq., the local health officer, the Commissioner or his designated representative may petition the General Sessions Court where the person or entity resides, is found, or is located to obtain a court order requiring disclosure of such information. Such petition shall set forth the specific underlying facts and/or circumstances that demonstrate the information sought is necessary to carry out the purposes of these Rules and/or 1200-14-4.01 et seq.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.17, REPEALED, is amended by deleting the word “REPEALED” and inserting the following so that the amended rule shall read:

1200-14-1-.17 CONFIDENTIALITY.

- (1) All individually identifiable health information collected, created, and/or prepared by the Department is deemed confidential and shall not be considered a public record. The Department may disclose such information to those entities or persons as are necessary to carry out the purposes of these Rules and 1200-14-4.01 et seq. or as otherwise authorized or required by law.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.23, Employment as a Foodhandler Restricted in Certain Cases, is amended by deleting the existing rule in its entirety, and substituting instead the following:

1200-14-1-.23 EMPLOYMENT AS A FOODHANDLER RESTRICTED IN CERTAIN CASES.

- (1) No person who is in an infectious stage with cholera, diphtheria, hepatitis type A, poliomyelitis, salmonellosis (including typhoid fever), shigellosis, campylobacteriosis, acute giardiasis or streptococcal infection shall serve or directly handle in any manner food intended for sale or public consumption.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.24, Exclusion from School for Special Diseases, is amended by deleting the existing rule in its entirety, and substituting instead the following:

1200-14-1-.24 EXCLUSION FROM SCHOOL FOR SPECIAL DISEASES.

- (1) It shall be the duty of the school authorities for any public, private, or church-related school and day care or Head Start authorities to exclude from their facilities any child who is infected with or suspected of having the following diseases: measles, rubella, mumps, chickenpox, pediculosis, scabies, and other illnesses designated by the local health officer as requiring exclusion.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.26, Obstructing Local Health Officers or Departmental Representatives, is amended by deleting the existing rule in its entirety, and substituting instead the following:

1200-14-1-.26 OBSTRUCTING LOCAL HEALTH OFFICERS OR DEPARTMENTAL REPRESENTATIVES.

- (1) No person shall interfere with or obstruct the entrance into any house or premises, or the inspection, examination, or interview of any occupant thereof or the examination of any relevant record, by the responsible health officer, his duly authorized agent or a representative of the Department in the proper discharge of his or her official duties under these Rules and 1200-14-4 et seq.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.27, Enforcement, is amended by deleting the existing rule in its entirety, and substituting instead the following:

1200-14-1-.27 ENFORCEMENT.

- (1) It shall be the duty of all local health authorities to obey and enforce the provisions of these regulations. Whenever any local health authority willfully neglects, fails, or refuses to comply with the provisions of these regulations, and it is apparent that an epidemic of a communicable disease exists or threatens to invade other jurisdictions, it shall be the duty of the Department to carry out the provisions of the law in such municipality or county, and the necessary expenses incurred thereby shall be paid by the respective municipality or county as prescribed by law.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

Rule 1200-14-1-.28, The Treatment of the Eyes of Newborn Infants, is amended by deleting the language “Silver nitrate - 10% is the product least likely to be adversely affected by extended storage and varying temperatures.” and inserting the following language in its place:

Silver nitrate - 1% (one percent) is the product least likely to be adversely affected by extended storage and varying temperatures.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

The proposed rules set out herein were properly filed in the Department of State on the 30th day of March, 2004, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2004. (03-16)

**THE TENNESSEE DEPARTMENT OF HEALTH - 1200
HEALTH SERVICES ADMINISTRATION
COMMUNICABLE AND ENVIRONMENTAL DISEASE SERVICES**

**CHAPTER 1200-14-4
COMMUNICABLE DISEASE CONTROL HEALTH THREAT PROCEDURES**

Presented herein are proposed rules of the Department of Health, Health Services Administration, Communicable and Environmental Disease Services, submitted pursuant to Tennessee Code Annotated § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Bureau of Health Services Administration, Communicable and Environmental Disease Services, to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the Office of Communicable and Environmental Disease Services on the 4th Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee, 37247, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee, 37243, and must be signed by twenty-five (25) persons who will be affected by the proposed rules, or submitted by a municipality which will be affected by the proposed rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed rules contact: Connie Yates, Tennessee Department of Health, 4th Floor, Cordell Hull Building, 425 5th Avenue, North, Nashville, Tennessee 37247, Phone: (615) 532-8490

The text of the proposed rules is as follows:

NEW RULES

**CHAPTER 1200-14-4
DISEASE CONTROL HEALTH THREAT PROCEDURES**

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1200-14-4-.01 INTRODUCTION.

This chapter outlines procedures to be followed by the Commissioner, health officers, and their designees, in carrying out disease control enforcement activities involving persons or premises that pose a health threat to others.

Authority: T.C.A. §§4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

1200-14-4-.02 DEFINITIONS.

- (1) Approved health care facility: a hospital or other health care facility approved by the Commissioner as having appropriate and necessary facilities, staff, and services for the diagnosis and treatment of people with a communicable disease.

- (2) Carrier: a person who harbors, or who the Commissioner, a health officer, or a designee reasonably believes to harbor, a specific pathogenic organism and who is potentially capable of spreading the organism to others, whether or not there are presently discernible signs and symptoms of the disease.
- (3) Chief Medical Officer: the State Health Officer who is appointed by the Commissioner of Health (as provided by T.C.A. § 68-1-102(c) to advise the Commissioner on all matters of state health policy or a physician who is the State Health Officer's designee.
- (4) Clear and convincing evidence: evidence which is positive and explicit, and which directly establishes the point to which it is adduced. It means greater than a preponderance of the evidence standard but less than a beyond a reasonable doubt standard.
- (5) Commissioner: the Commissioner of Health, or his designee, as provided at T.C.A. §§ 68-1-102(b) and (c).
- (6) Communicable Disease: a disease or condition resulting from infection by a pathogenic organism (infectious agent) that may cause serious illness, disability, or death and which may be transmitted from one person to another.
- (7) Competent medical experts: physicians who are trained and experienced in the diagnosis, treatment and control of infectious/communicable disease and rely on known clinical or epidemiological evidence. Generally, the standard for determining the existence of a significant risk to others is the reasonable medical judgment of the public health authorities.
- (8) Department: the Tennessee Department of Health.
- (9) Emergency: a person or premises is a health threat to others and there is a clear and imminent danger to the public health unless the person is immediately separated from other persons or access to the premises is prevented or restricted, because no less restrictive alternatives exist which would reasonably protect the public health.
- (10) Health directive: a written statement (or, in compelling circumstances, an oral statement followed by a written statement), based on clinical or epidemiological evidence of the kind relied upon by competent medical experts, that is issued by the Commissioner or health officer, requiring a person to cooperate with health authorities' efforts to prevent or control transmission of a disease that poses a health threat to others.
- (11) Health Officer: the Chief Medical Officer for the State of Tennessee; a licensed physician who is authorized by the Department to function as a county, district, or regional health officer in Tennessee, a licensed physician who serves as the health director or health officer of any metropolitan public health department in Tennessee; a licensed physician in the central office of the Department's Health Services Administration.
- (12) Health threat to others: the direct threat of endangerment to others due to the presence of a cause or source of a disease on premises, or due to the inability, unwillingness, or failure of a carrier to act in such a manner as to not place others, without their consent, at significant risk of exposure to, based on the reasonable medical judgment and clinical or epidemiological understanding of public health authorities, a disease that may cause serious illness, disability, or death. A determination of whether or not premises or a person poses a health threat to others may include, but is not necessarily limited to, assessing the cause, source, and/or nature of a disease, the likelihood of infection, the modes of transmission, the risk of transmission, and the severity of harm that might result due to transmission of a disease. With respect to carriers, such a

determination is not based solely on a person's past behavior but also involves an assessment of a person's current situation, including the effects of educational efforts and statements of intent. A person having a disease, such as active tuberculosis, even though rendered temporarily not capable of transmission because of receiving therapy, who discontinues treatment prior to reaching a curative result, may continue to be a health threat to others.

- (13) Isolation: the separation for the period of communicability of infected persons, or persons reasonably suspected to be infected, from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to other persons who are susceptible or who may spread the agent to others.
- (14) Least restrictive alternative: use of means sufficient to protect the public health but tailored to infringe upon any legally protected liberty interests, privacy interests, property interests, and/or association interests of a person or premises determined to be a health threat to others in the least restrictive manner.
- (15) Petitioner: the Commissioner or health officer who commences an action in General Sessions Court pursuant to these Rules.
- (16) Public health measure: a measure or measures, consistent with the purpose of these Rules, imposed by a General Sessions Court against a carrier or owner or operator of premises in order to prevent the spread of a disease that poses a health threat to others.
- (17) Quarantine: limitation of freedom of movement or isolation of a person, or preventing or restricting access to premises upon which the person, cause or source of a disease may be found, for a period of time as may be necessary to confirm or establish a diagnosis, to determine the cause or source of a disease, and/or to prevent the spread of a disease. These limitations may be accomplished by placing a person in a health care facility or a supervised living situation, by restricting a person to the person's home, or by establishing some other situation appropriate under the particular circumstances.
- (18) Respondent: a person against whom an action in General Sessions Court is commenced pursuant to these Rules.
- (19) Transmission: the transfer of an infectious agent from one person to another, including, but not limited to, airborne transmission, bloodborne transmission, foodborne transmission, sexual transmission, skin contact transmission, or waterborne transmission.

Authority: *T.C.A. §§4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.*

1200-14-4-.03 REPORTING A HEALTH THREAT TO OTHERS.

- (1) Any person licensed by the State of Tennessee to practice a healing art who has reasonable cause to believe that a person is or may be a health threat to others [as defined in § 1200-14-4-.02(12) of these Rules] because the person is unable, is unwilling, or is failing to act in such a manner as to not place others at significant risk of exposure to infection that causes serious illness, disability, or death shall report that information to the Commissioner or a health officer.
- (2) In the event a carrier of a disease that poses a health threat to others uses interstate or international flight to avoid treatment and/or isolation and/or quarantine in Tennessee, such individual shall be deemed to have waived confidentiality as to his health status, and Tennessee health authorities can contact health authorities in the jurisdiction to which the individual fled regarding the health threat presented by the carrier.

Authority: *T.C.A. §§4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.*

1200-14-4-.04 HEALTH DIRECTIVE.

- (1) If the Commissioner or health officer reasonably believes, based upon clinical or epidemiological evidence of the kind relied upon by competent medical experts, that a health threat to others exists, then he/she shall have the authority to issue a health directive pursuant to the conditions set forth in these Rules, in order to protect the public health. A health directive shall be a written statement or, in compelling circumstances, an oral statement followed within three (3) days by a written statement. A health directive shall be individual and specific and shall not be issued to a class of persons. The purpose of a health directive is to direct a carrier or owner or operator of premises to cooperate with health authorities' efforts to prevent or control transmission of a disease that poses a health threat to others.
- (2) A health directive may include, but is not necessarily limited to, participation in education and counseling, medical tests and examinations to verify carrier status, participation in treatment programs, isolation and/or or quarantine, or preventing or restricting access to premises upon which a person, cause or source of a disease may be found, for a period of time as may be necessary to confirm or establish a diagnosis, to determine the cause or source of a disease, and/or to prevent the spread of a disease. In no case may a person be isolated, held or detained, pursuant to these Rules, in a correctional facility.
- (3) If a carrier or owner or operator of premises refuses to undergo tests or examinations ordered in a health directive, the Commissioner or health officer may be limited in his or her ability to obtain sufficient evidence to evaluate a potential health threat to others and he/she, lacking the necessary tests or examinations, may be compelled to conclude for the sake of the public health that a health threat to others is present. Then the carrier must undergo testing sufficient to prove the health threat to others does not exist.
- (4) Inability, unwillingness, or failure of a carrier or owner or operator of premises to comply with a health directive shall be grounds for proceeding with a petition in the General Sessions Court for a temporary hold in emergency situations and/or a public health measure.
- (5) Medical information contained in a health directive or in any other statement from the Commissioner or health officer or designee to a carrier pursuant to these Rules is confidential, except to the extent necessary for the administration and enforcement of public health laws and rules, and is not subject to public disclosure without appropriate authorization in accordance with state and/or federal law.
- (6) Prior to issuing a health directive, the Commissioner or health officer should review the written medical and other records pertinent to the matter, along with any measures that have been taken, and make findings using clinical or epidemiological evidence of the kind relied upon by competent medical experts. These findings should be included in the health directive itself.
- (7) When a health directive is issued to a carrier or owner or operator of premises, such person may request a review of the decision. Any request for review must be submitted to the Office of the Chief Medical Officer. Within five (5) business days of the receipt of the request, the Chief Medical Officer or his designee shall review the underlying facts with the health officer issuing the directive and shall notify the person in writing of the review decision. A person against whom a health directive has been issued may also request that the conditions of the directive be obtained in the form of a public health measure. The health directive should be considered as remaining in force during the review process. Health directives should contain sufficient information to enable a person to avail himself of discussion and review, and a copy of these Rules should be attached to the health directive.

- (8) A health directive shall employ the least restrictive alternative, based on the reasonable medical judgment of competent medical experts relying on clinical or epidemiological evidence, that will adequately protect the public health and prevent the spread of a disease that poses a health threat to others.
- (9) Nothing in this Rule shall preclude a person to whom a health directive is issued from consulting with and being assisted by legal counsel.

Authority: T.C.A. §§4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

1200-14-4-.05 TEMPORARY HOLD IN EMERGENCY SITUATIONS.

- (1) In the case of an emergency, the Commissioner or health officer may petition the General Sessions Court of the county where the person lives or is to be found, or where the premises is located, to either: (1) order a peace officer to make a civil arrest and take the person to an appropriate health care facility for examination, isolation and/or appropriate treatment; or (2) prevent or restrict access to premises. The Commissioner or health officer shall set forth in an affidavit the specific facts upon which the order is sought, indicating why reasonable cause exists (upon the basis of sound clinical or epidemiological evidence of the type relied upon by competent medical experts) to believe that there is a substantial likelihood that the carrier or premises poses an imminent health threat to others, and the types of relief sought. If the carrier is already institutionalized, the court may be petitioned to order the facility to continue to hold the carrier.
- (2) A person shall not be held, or premises quarantined, under temporary emergency hold for more than five working (5) days (excluding Saturdays, Sundays and legal State holidays) without a hearing being held before the General Sessions Court, unless the person so held, or owner or operator of premises quarantined, consents to delay the hearing. At this hearing the Commissioner or health officer may petition for a public health measure pursuant to § 1200-14-4-.06 and/or may request that the temporary emergency hold be continued, due to an imminent health threat to others, for a period not to exceed an additional ten (10) working days. Within these time limits, the hearing on the temporary emergency hold will be held in accordance with the procedures set forth in § 1200-14-4-.06(3).
- (3) Unless the person so held, or owner or operator of premises quarantined, consents, in no event shall a person be held, or a premises quarantined, under a temporary emergency hold for more than fifteen (15) working days without a petition for a public health measure being heard pursuant to § 1200-14-4-.06.

Authority: T.C.A. §§ 4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

1200-14-4-.06 PETITION TO THE COURT FOR A PUBLIC HEALTH MEASURE.

- (1) To protect the public against a disease that poses a health threat to others, the Commissioner or health officer shall have the authority to file a petition for relief in the form of a public health measure with the General Sessions Court in the county where the carrier lives or is to be found, or where the premises is located, setting forth in an affidavit the specific facts upon which the order is sought and what type of relief is sought. The Department shall have the burden of proving that reasonable cause exists, based on sound clinical or epidemiological evidence, to believe that there is a substantial likelihood that the carrier or premises poses a health threat to others by clear and convincing evidence.
- (2) The petition shall set forth the grounds and underlying facts that demonstrate the carrier or premises poses a health threat to others, the proposed public health measure is the least restrictive alternative, and the type of relief sought. Public health measures may include, but are not limited to, the following:

- (a) participation in a designated education program or a designated counseling program;
 - (b) notification of the carrier of appearance of the carrier before designated health officials for verification of carrier status or infectiousness, testing, treatment, or other purposes consistent with monitoring or communicable disease control;
 - (c) medical tests and examinations necessary to verify carrier status or infectiousness or for diagnosis, treatment, or confirmation of compliance with therapy;
 - (d) medically-accepted treatment necessary to make the carrier noninfectious or completion of the full course of a medically-accepted treatment program of sufficient duration to render the carrier noninfectious and to be curative;
 - (e) ceasing and desisting the actions or conduct that constitutes a health threat to others;
 - (f) living part time or full time in a setting supervised by the Commissioner for a designated period of time and under designated conditions;
 - (g) commitment to the custody of the Commissioner for placement in an appropriate institutional facility or other supervised living situation for a designated period and under designated conditions until the carrier is made noninfectious or until released based on a determination by the Chief Medical Officer, or the Chief Medical Officer's physician designee, that the carrier is appropriate for release to continue treatment as a voluntary patient in an approved health care facility or other appropriate supervised setting, whichever occurs first, unless good cause is shown for continued commitment;
 - (h) commitment to the custody of the Commissioner for placement in an appropriate institutional facility or other supervised living situation for a designated period and under designated conditions until the carrier completes the full course of a medically-accepted curative treatment program or until released based on a determination by the Chief Medical Officer or his/her physician designee that the carrier is appropriate for release to continue the treatment program in a less restrictive setting, whichever comes first;
 - (i) preventing or restricting access to premises for such time as is necessary to prevent the spread of a disease that poses a health threat to others; and/or
 - (j) requiring tests or examinations on premises to determine the source or cause of a disease that may pose a health threat to others.
- (3) The hearing on the petition for a public health measure shall not be set prior to five (5) days, excluding Saturdays, Sundays and legal State holidays, from the date the petition is served without the consent of the affected person. The notice of hearing shall contain the following information:
- (a) the time, date, and place of the hearing;
 - (b) the person's right to appear at the hearing and to subpoena, present and cross-examine witnesses;
 - (c) the person's right to have a personally-selected physician perform an examination and the right to review the results of any examination or test being used to support the petition; and

- (d) the person's right to counsel, including the right, if indigent, to counsel appointed by the court.
- (4) A person may appeal an adverse General Sessions Court decision or file a petition for a writ of habeas corpus in a court of competent jurisdiction or the Department may appeal the General Sessions Court decision; however, the person's status as determined by the General Sessions Court shall remain unchanged and any remedy or relief ordered by the court shall remain in force while the appeal or writ of habeas corpus is pending.

Authority: T.C.A. §§ 4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

1200-14-4-.07 COMMITMENT TO THE CUSTODY OF THE COMMISSIONER.

- (1) Review prior to a petition for commitment. Before petitioning the General Sessions Court to commit a person to the custody of the Commissioner pursuant to Section 1200-14-4-.06(2)(g-h), the health officer seeking the petition shall notify the Chief Medical Officer or his/her physician designee from the Health Services Administration and shall present the underlying facts upon which the commitment is sought. This notification shall occur prior to petitioning the court, except in compelling extreme and unusual circumstances, in which event the notification shall occur as soon as possible thereafter. The Chief Medical Officer or designated physician from the Health Services Administration shall review the underlying facts, obtain consultations as necessary, and shall promptly (i.e., within twenty-four (24) hours) make a determination regarding the need to submit a petition for commitment.
- (2) Review after an order of commitment. When the General Sessions Court orders a person to be committed to the custody of the Commissioner for placement in an approved health care facility or other supervised living situation, the Chief Medical Officer or his/her physician designee shall review the treatment plan and written progress reports with the appropriate health officer and shall make a determination regarding the need for continued commitment or supervised living. At least every ninety-two (92) days (or more frequently if ordered by the court), the Chief Medical Officer or his/her physician designee shall send a written notification to the person or to the person's legal guardian or representative and to the appropriate health officer regarding the determination as to whether continued commitment or supervised living is needed.
- (3) Duration of Commitment. A person shall not be committed to the custody of the Commissioner for placement in an institutional facility or other supervised living situation for a period longer than six (6) months unless a petition for continued commitment is filed with the General Sessions Court having jurisdiction of the matter, in which case the commitment shall continue until a hearing on the petition has been held and the court has issued an order. The Commissioner or health officer may petition the court for an order of continued commitment for as many times as necessary for the protection of the public health, and the court may order continued commitment if reasonable cause exists, based on sound clinical or epidemiological evidence, to believe that there is a substantial likelihood that the carrier poses a health threat to others, by clear and convincing evidence, if released.

Authority: T.C.A. §§4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

1200-14-4-.08 PATIENT BILL OF RIGHTS.

The following are the rights of any patient pursuant to this chapter:

- (1) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The approved treatment facility may adopt reasonable policies regarding the use of the telephone in the facility.
- (2) Patients in any approved facility shall be granted opportunities for visitation and communication with their families and friends consistent with an effective treatment program. Patients shall be permitted to consult with counsel at any time.
- (3) Any patient confined pursuant to the provisions of these Rules may be given treatment only with the patient's consent, or if the patient is adjudicated incompetent, then the consent of the guardian must be obtained. Patients must understand that refusal to cooperate with treatment will compel continued actions on the part of the health officer to protect the public's health.
- (4) Isolation of the patient from other patients in the confinement of an approved treatment facility setting shall be used only when medically necessary to prevent serious harm to others because the patient is infectious and there is an imminent danger that the patient will engage in high-risk behaviors. Isolation shall not be used when the condition no longer exists or there is no longer an imminent danger that the patient will engage in the behavior justifying isolation. Any use of isolation, together with the reasons therefor and the duration of its use, shall be made a part of the medical record of the patient.
- (5) No patient placed in confinement pursuant to these Rules shall, solely by reason of such placement, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and vote, to the extent that such activities can be undertaken without jeopardizing the public health and unless such patient has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.
- (6) A patient shall be provided the maximum freedom possible. Limitations on a patient's freedom are permitted only when reasonably necessary to protect the health of others in the facility or the public health. The patient shall be allowed, within these constraints, to exercise, recreate, and go outdoors for a reasonable period of time on a daily basis.
- (7) No mechanical restraint shall be applied in the care, training, or treatment of any person unless required by the person's medical or treatment needs. Only physicians may prescribe such restraint. Such restraint shall be removed whenever the condition justifying its use no longer exists. Any use of a mechanical restraint, together with the reasons therefor, and the duration of its use, shall be made a part of the medical or rehabilitation record of the person. Patients shall not be abused nor neglected nor administered corporal punishment. Mechanical restraints shall not be used in lieu of, or in place of, appropriate medical management for conditions such as drug or alcohol intoxication, habituation or addiction.
- (8) Confidentiality.
 - (a) All applications, certificates, records, reports, and all legal documents, petitions, and records made or information received pursuant to treatment in a facility directly or indirectly identifying a patient or former patient shall be kept confidential and shall not be disclosed by any person except insofar as any of the following consent:
 1. The individual identified who is fourteen (14) years of age or over;
 2. The legal guardian on behalf of the adult individual identified;

3. The parent, guardian, or custodian of a minor;
 4. The executor, administrator or personal representative on behalf of a deceased patient or resident or former patient or resident; or
 5. As a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to public interest or to the detriment of either party to the proceedings, consistent with the provisions of T.C.A. §§ 10-7-504(a) or 68-10-113.
- (b) Nothing in this paragraph shall prohibit disclosure of medical record information of a patient or resident to the Commissioner or to health officers.
- (c) Nothing in this paragraph shall prohibit disclosure, upon proper inquiry and with the patient's consent, of information as to the current medical condition of a patient or resident to any members of the family of a patient or resident or to his relatives or friends.
- (9) Health directives and public health measures should be written in non-technical, patient-appropriate language and should include the reasons for the health directive or public health measure (including a statement of actions the Department has taken prior to the directive or court order), tests and/or treatments expected, anticipated duration of the directive/public health measure, and rights of review or appeal as set out in these Rules.

Authority: T.C.A. §§ 4-3-1803(1), (3), (4), and (10), 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

REPEALS

Chapter 1200-14-4, Communicable Disease Control Health Threat Procedures, is repealed in its entirety.

The proposed rules set out herein were properly filed in the Department of State on the 30th day of March, 2004, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2004. (03-15)

THE TREASURY DEPARTMENT - 1700
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST BOARD

CHAPTER 1700-5-1
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST

Presented herein is a proposed amendment of the Board of Trustees of the Tennessee Baccalaureate Education System Trust submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed in the Treasury Department, Division of the Tennessee Baccalaureate Education System Trust, Ninth Floor, Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Publications Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243; (615) 741-7063.

The text of the proposed amendment is as follows:

AMENDMENTS

1700-5-1-.05 Purchase of Tuition Units is amended by deleting from paragraph (4) the word and figures "five (5)" and by substituting instead the word and figures "seven (7)" so that, as amended, the paragraph shall read:

- (4) **Limit on Number of Units.** Subject to Section 529 of the Internal Revenue Code and the regulations promulgated thereunder, an individual may enter into both an educational services plan tuition contract as described in these rules and an educational savings plan tuition contract as described in Chapter 1700-5-2 of the Official Compilation of the Rules and Regulations of the State of Tennessee on behalf of the same beneficiary. In addition, more than one individual may enter into an educational savings plan tuition contract, an educational services plan tuition contract, or both, on behalf of the same beneficiary. Provided, however, that no additional contributions can be made to any contract on behalf of the same beneficiary if at the time of the proposed contribution the total account balance of all contracts on behalf of the same beneficiary total a certain dollar amount as determined by majority vote of the Board pursuant to Rule 1700-5-1-.02 (2)(c). Such dollar amount will be set by the Board on an annual basis and shall not exceed the amount determined by actuarial estimates to be necessary to pay tuition, required fees, and room and board for seven (7) years of undergraduate enrollment at the highest cost institution of higher education.

Authority: T.C.A. § §49-7-805(16), 49-7-805(11), 49-7-805(12) and 49-7-806.

The proposed amendment set out herein was properly filed in the Department of State on the 31st day of March, 2004, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2004. (03-17)

THE TREASURY DEPARTMENT - 1700
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST BOARD

CHAPTER 1700-5-2
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST
EDUCATIONAL SAVINGS PLAN

Presented herein is a proposed amendment of the Board of Trustees of the Tennessee Baccalaureate Education System Trust submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed in the Treasury Department, Division of the Tennessee Baccalaureate Education System Trust, Ninth Floor, Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Publications Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendment, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243; (615) 741-7063.

The text of the proposed amendment is as follows:

AMENDMENTS

1700-5-2-.05 Contributions is amended by deleting from paragraph (2) the word and figures “five (5)” and by substituting instead the word and figures “seven (7)” so that, as amended, the paragraph shall read:

- (2) **Limit on Amount of Contributions.** Subject to Section 529 of the Internal Revenue Code and the regulations promulgated thereunder, an individual may enter into both an Educational Savings Plan tuition contract as described in these rules and an Educational Services Plan tuition contract as described in Chapter 1700-5-1 of the Official Compilation of the Rules and Regulations of the State of Tennessee on behalf of the same Beneficiary. In addition, more than one individual may enter into an Educational Savings Plan tuition contract, an Educational Services Plan tuition contract, or both, on behalf of the same Beneficiary. Provided, however, that no additional contributions can be made to any contract on behalf of the same Beneficiary if at the time of the proposed contribution the total account balance of all contracts on behalf of the same Beneficiary total a certain dollar amount as determined by majority vote of the Board pursuant to Rule 1700-5-2-.02 (2)(c). Such dollar amount will be set by the Board on an annual basis and shall not exceed the amount determined by actuarial estimates to be necessary to pay Tuition, required fees, and Room and Board for seven (7) years of undergraduate enrollment at the highest cost Institution of Higher Education.

Authority: T.C.A. §§49-7-805(16), 49-7-805(11), 49-7-805(12) and 49-7-806.

The proposed amendment set out herein was properly filed in the Department of State on the 31st day of March, 2004, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2004. (03-18)

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PUBLIC NECESSITY RULES

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

- 1360 - Department of Health - Administrative Procedures Division - Public necessity rule concerning hearings, rule 1360-4-1-.06 Service of Notice of Hearing, 3 T.A.R. (March 2004) - Filed February 27, 2004; effective through August 10, 2004. (02-14)

- 1640 - TN Student Assistance Corporation - Public necessity rules to ensure the timely and orderly implementation of the lottery scholarship program for the Fall 2004 semester, chapter 1640-1-19, Tennessee Educational Lottery Scholarship Program, 1 T.A.R. (February 2004) - Filed December 29, 2003; effective though June 11, 2004. (12-23)

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RULEMAKING HEARINGS

BOARD OF DIETITIAN / NUTRITIONIST EXAMINERS - 0470

There will be a hearing before the Tennessee Board of Dietitian / Nutritionist Examiners to consider the promulgation of an amendment 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. (CDT) on the 7th day of July, 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 RULE

AMENDMENT

Rule 0470-1-.06, Fees, is amended by deleting subparagraph (4) (d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (d) shall read:

(4) (d) License – Initial \$ 55.00

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-25-107, 63-25-109, and 63-25-111.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of March, 2004. (03-06)

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240
CHILD SUPPORT DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to its rules pursuant to T.C.A. §§ 71-2-501 et seq. The hearings 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 Washington County Department of Human Services' Conference Room, at 103 East Walnut Street, Johnson City, TN at 6:30 PM Eastern Time on Monday May 17, 2004; Knoxville State office building 7th Floor Conference Room A, at 531 Henley Street, Knoxville, TN 37902 at 6:30 PM Eastern Time on Tuesday, May 18, 2004; Putnam County Department of Human Services' Conference Room, at 269-E South Willow Ave. Cookeville, TN 38501 at 6:30 PM Central Time on Thursday May 20, 2004; Citizen Plaza State Office Building, Second Floor Board Room, 400 Deaderick Street, Nashville, TN at 6:30 PM Central Time on Monday, May 24, 2004; Maury County Department of Human Services' Conference Room at 1400 College Park Drive Suite B Columbia, TN 38401 at 6:30 PM Central Time Tuesday May 25, 2004; Chattanooga State Office Building Auditorium, at 540 McCallie Avenue, Chattanooga, TN 37402 at 6:30 PM Eastern Time on Thursday, May 27, 2004; Donnelley J. Hill State Office Building, Second Floor Auditorium at 170 North Main Street, Memphis, TN 38103 at 6:30 PM Central Time on Tuesday, June 1, 2004; Lowell Thomas Sate Office Building, Second Floor Conference Room, 225 Martin Luther King Jr. Drive Jackson, TN 38301 at 6:30 PM Central Time on Wednesday, June 2, 2004; County Department of Human Services' Conference Room at 1416 Stad Avenue Union City, TN 38261 at 6:30 PM Central Time on Thursday June 3, 2004.

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

For a copy of this notice of rulemaking hearing, contact: Barbara Broersma, Assistant General Counsel, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUMMARY OF PROPOSED RULES

REPEALS

Chapter 1240-2-4, Child Support Guidelines, is repealed. The repeal eliminates the current child support "Flat Percentage" model of child support guidelines of the Tennessee Department of Human Services that calculate the amount of child support based upon the application to the non-custodial parent's net income set percentages associated with the number of children for whom support is being set to establish the amount of child support that will be paid by the non-custodial parent.

Authority: T.C.A. §§4-5-202; 71-3-132; 36-5-101(e); 71-3-105(16); 42 U.S.C.A. § 667 and 45 C.F.R. §§ 302.56, 303.8

NEW RULES

The new rules proposed by the Department of Human Services in Chapter 1240-2-4 contain the Child Support Guidelines which are required to be used by all courts and administrative agencies that determine the amount of child support that is to be established initially, or in modifications of existing orders, in paternity, divorce or separate maintenance cases, in cases being enforced for other States or for other cases in which the custody of children may be placed by the courts with persons or entities other than their parents.

These new rules utilize an “Income Shares” model in which the incomes of both parents are utilized to establish the amount of support that should be ordered by the court or administrative agency. They include rules for determining the level of child support; the underlying basis for such rules; credits against income for other children of the parents for whom the parent claiming the credit may also be legally obligated to support; the schedule setting forth the amount of support that is to be paid by parents at different income levels based upon the number of children for whom support is being set; and the forms and instructions necessary to use the rules.

1240-2-4-.01 Legal Basis and Scope.

Describes the Federal and State legal requirements for the establishment and application of child support guidelines and the types of cases to which the rules apply and the effective date of these guidelines. Federal law requires that each State adopt a set of guidelines for the determination of child support in the State as a condition of the receipt of Federal funding for child support enforcement activities funded under Title IV-D of the Social Security Act and for public assistance programs funded by the Title IV-A of the Social Security Act. The rules will apply to all cases that set temporary or permanent support for children initially, or in which modification of support for children is sought, on and after the effective date of the rules. Existing orders that were established or modified by use of the Flat Percentage model will be able to be modified using the Income Shares model established by these rules if the parties can demonstrate a significant variance, as defined in Rule 1240-2-4-.05, between the existing order and the amount that would be ordered under the new Income Shares model.

1240-2-4-.02 Definitions.

Contains a list of terms commonly used in this Chapter that are necessary to understand and use the rules and introduces new designations for parents, e.g., “primary residential parent” in place of custodial parent,

or “obligee”, and “alternate residential parent” in place of “non-custodial parent” or “obligor”.

1240-2-4-.03 Purpose for and Basis of Child Support Guidelines.

Establishes the purpose for and basis of the child support guidelines, describing the underlying theory and assumptions upon which the “Income Shares” model is based and the major goals of the guidelines. This section describes the Income Shares model and its application to the establishment of child support orders.

1240-2-4-.04 Determination of Child Support.

Contains the requirements for determination of child support, including the mandatory use of forms and instructions for the calculations; the determination of gross and adjusted gross income of both parents that is subject to, or exempt from, use in the calculation of support; use of pre-existing orders for support of children; the use of credits for the legal obligation to support other children of the parent which reduce the amount of income that can be utilized to set support in the pending case. In attempting to equitably distribute the income among the children of the parties, either parent can seek to claim credits for any other children of that parent who are not in the case before the child support tribunal, and for whom the parent is legally obligated to support and whom that parent is actually supporting, to reduce the amount of income upon which the support order will be based. This provision recognizes the needs of other children who must receive support from that parent as well as those before the court.

The determination of child support is based upon a new Child Support Schedule, which is a table of child support obligations based upon the combined income of the parents and the number of children for whom support is being established, that must be used in the establishment or modification of child support. The proposed rules also provide for the determination of appropriate additional expenses necessary to rearing a child, such as additional costs for health insurance, child care, uninsured medical expenses, or educational needs of the child which are used as part of the calculation of the recommended child support order.

This section includes instructions on calculating support for a variety of situations in an Income Shares model involving custody and visitation (alternate parenting) status involving children of the parties such as when a parent exercises sole physical parenting of a child; when a parent's income qualifies for a reduced amount of support in a sole parenting situation; when a parent exercises more than standard alternate parenting with a child and when parents split parenting of two or more children between them.

1240-2-4-.05 Modification of Child Support Orders.

Addresses modification of child support orders, including the circumstances under which a modification is appropriate. Modification requires a significant variance of fifteen percent (15%) [seven and one half percent (7.5%) for low income parents, which is defined by the amount of adjusted gross income of the alternate residential parent in certain income ranges contained in the Child Support Schedule] between the existing order and the proposed order that must be met before a modification of a support order can be sought. Credits for children of a new marriage or any other children that the parent is legally obligated to support, and is actually supporting, are used in the calculation of the significant variance.

1240-2-4-.06 Retroactive Support.

Describes retroactive support and the methods for determining the appropriate amount of retroactive support under various circumstances, such as when paternity is established several years after the child's birth or after the separation or divorce of parents

1240-2-4-.07 Deviations from the Child Support Guidelines.

Establishes the legal justification for deviation from the Guidelines and the procedural steps required to sustain a deviation from the presumptive amount of support under the Guidelines. Establishes rules for calculating child support in child support cases in which either of the parents has a high income.

1240-2-4-.08 Appendix A – Child Support Schedule.

Contains the child Support Schedule, which is the basic schedule of support obligations set forth in table form utilizing the amount of the parents' income in conjunction with the number of children to be supported. This schedule is also used in the calculation of credits given to parents if they have a legal obligation to support other children who are not before the court or administrative agency for a determination of support.

1240-2-4-.09 Appendix B – Worksheets and Instructions.

Contains the child support worksheets and instructions, and the credit worksheet. There are four (4) sets of Worksheets and Instructions: Worksheet A – Sole Physical Parenting; Worksheet B – Sole Physical Parenting, Alternate (Low-Income Payer Parent) Support; Worksheet C – Shared Parenting; and Worksheet D – Split Parenting. The Credit Worksheet is to be used when a parent seeks credit to offset income due to other children for whom the other parent is legally responsible and supporting, and to record pre-existing orders. The forms are mandatory to ensure uniformity and must be included with the child support order.

Authority: T.C.A. §§ 4-5-202; 71-3-132; 36-5-101(e); 71-3-105(16); 42 U.S.C.A. § 667 and 45 C.F.R. §§ 302.56, 303.8.

For a copy of the entire text of these rules, contact Barbara Broersma, Assistant General Counsel, Tennessee Department of Human Services, 15th Floor, Citizens Plaza Building, 400 Deaderick Street, Nashville, TN 37248-0006, telephone number (615) 313-4731.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2004. (03-19)

THE BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-6-101, and 63-6-204. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of May, 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 RULE**AMENDMENT**

Rule 0880-2-.15 Medical Records, is amended by deleting part (4) (e) 1., subpart (4) (e) 2. (i), and subpart (4) (e) 3. (ii) in their entirety and substituting instead the following language, so that as amended, the new part (4) (e) 1., the new subpart (4) (e) 2. (i), and the new subpart (4) (e) 3. (ii) shall read:

- (4) (e) 1. Records of Physicians upon Death or Retirement - When a physician retires or dies while in practice, patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified by the physician, or his/her authorized representative and urged to find a new physician and be informed that upon authorization, copies of the records will be sent to the new physician. This notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.
- (4) (e) 2. (i) Whomever is responsible for that notification must notify patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months of his/her departure, except that this notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.
- (4) (e) 3. (ii) Patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified that the physician (or the estate) is transferring the practice to another physician or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another physician or entity of their choice. This notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-6-101, and 63-6-204.

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of May, 2004.
(03-07)

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, 63-2-101, 63-2-102, 63-9-101, and 63-9-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of May, 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 RULE**AMENDMENT**

Rule 1050-2-.18 Medical Records, is amended by deleting part (4) (e) 1., subpart (4) (e) 2. (i), and subpart (4) (e) 3. (ii) in their entirety and substituting instead the following language, so that as amended, the new part (4) (e) 1., the new subpart (4) (e) 2. (i), and the new subpart (4) (e) 3. (ii) shall read:

- (4) (e) 1. Records of Physicians upon Death or Retirement - When a physician retires or dies while in practice, patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified by the physician, or his/her authorized representative and urged to find a new physician and be informed that upon authorization, copies of the records will be sent to the new physician. This notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.
- (4) (e) 2. (i) Whomever is responsible for that notification must notify patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months of his/her departure, except that this notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.
- (4) (e) 3. (ii) Patients seen by the physician in his/her office during the immediately preceding thirty-six (36) months shall be notified that the physician (or the estate) is transferring the practice to another physician or entity who will retain custody of their records and that at their written request the copies of their records will be sent to another physician or entity of their choice. This notification requirement shall not apply when there has been only one (1) office patient encounter within the immediately preceding eighteen (18) months.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, 63-9-101, and 63-9-106.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2004. (03-11)

BOARD OF EXAMINERS IN PSYCHOLOGY - 1180

There will be a hearing before the Tennessee Board of Examiners in Psychology to consider the promulgation of amendments to rules 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. (CDT) on the 25th day of May, 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 1180-1-.04, Application Review, Approval, Denial and Interviews, is amended by deleting paragraph (8) in its entirety and substituting instead the following language, so that as amended, the new paragraph (8) shall read:

- (8) If a license or certificate has been issued in error, the Board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure or certification within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license or certificate, the applicant shall have the right to proceed according to paragraph (7) of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-206, 63-11-207, 63-11-208 and 63-11-215, 63-11-216, and 63-11-217.

Rule 1180-1-.04, Application Review, Approval, Denial and Interviews, is amended by adding the following language as new paragraph (6) and renumbering the remaining paragraphs accordingly:

- (6) A temporary authorization to practice, pursuant to T.C.A. 63-1-142, may be issued to an applicant following an initial determination by a Board member or designee that the completed file evidences that the applicant has met all of the requirements for licensure, certification, renewal or reinstatement. The temporary authorization is valid until the Board reviews and makes a final decision on the application, and is effective for a period of no more than six months

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-142, 63-11-104, 63-11-206, 63-11-207, and 63-11-208.

Rule 1180-2-.03, Procedures for Licensure, is amended by adding the following language as new paragraph (5) and renumbering the remaining paragraphs accordingly:

- (5) An applicant shall submit with the application a certified copy or a notarized photocopy of his/her birth certificate.

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

Rule 1180-3-.03, Procedures for Licensure, is amended by adding the following language as new subparagraph (1) (d) and renumbering the remaining subparagraphs accordingly:

- (1) (d) An applicant shall submit with the application a certified copy or a notarized photocopy of his/her birth certificate.

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

Rule 1180-4-.03, Procedures for Certification, is amended by adding the following language as new paragraph (5) and renumbering the remaining paragraphs accordingly:

- (5) An applicant shall submit with the application a certified copy or a notarized photocopy of his/her birth certificate.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of March, 2004.
(03-02)

**THE TENNESSEE BOARD OF OCCUPATIONAL AND PHYSICAL
THERAPY EXAMINERS - 1050
COMMITTEE OF PHYSICAL THERAPY**

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of 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. (CDT) on the 13th day of July, 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 RULE

AMENDMENT

Rule 1050-1-.04, Qualifications for Licensure, is amended by adding the following language as new part (3) (d) 4.:

- (3) (d) 4. Supervision provided by the applicant's parents, spouse, former spouse, siblings, children, cousins, in laws (present or former), aunts, uncles, grandparents, grandchildren, stepchildren, employees, present or former physical therapist, present or former romantic partner, or anyone sharing the same household shall not be acceptable toward fulfillment of licensure requirements. For the purposes of this rule, a supervisor shall not be considered an employee of the applicant, if the only compensation received by the supervisor consists of payments for the actual supervisory hours.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2004. (03-10)

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-12-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 9th day of June, 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 RULE**AMENDMENT**

Rule 1730-1-.02, Scope of Practice, is amended by deleting parts (3) (c) 1. and (3) (c) 3. in their entirety and substituting instead the following language, and is further amended by adding the following language as part (3) (c) 4., so that as amended, the new parts (3) (c) 1., (3) (c) 3., and (3) (c) 4. shall read:

- (3) (c) 1. As part of an initial evaluation order; or
- (3) (c) 3. For continuation medications on a short-term basis prior to the veterinarian personally examining the animal, herd, or flock; or
- (3) (c) 4. For medications administered by the owner of the animal, herd, or flock as provided in T.C.A. § 63-12-133 (a) (4) and when the veterinarian has prescribed and/or dispensed in a manner consistent with this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-103, 63-12-106, 63-12-124, and 63-12-133.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of March, 2004. (03-09)

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 20th day of May, 2004.

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

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

SUBSTANCE OF PROPOSED RULES

CHAPTER 1660-1-8 RULES AND REGULATIONS OF HUNTS

AMENDMENT

Chapter 1660-1-8-.03 Permit Requirements – Wildlife Management Areas and Refuges The title is amended by adding “and Other Agency Controlled Lands” at the end of the sentence so that, as amended, the title shall read “Permit Requirements - Wildlife Management Areas, Refuges And Other Agency Controlled Lands”

Authority: TCA §70-1-206.

AMENDMENT

Rule 1660-1-8-.03 Permit Requirements – Wildlife Management Areas and Refuges, Paragraph (3) is amended by deleting it in its entirety and inserting the following language so that, as amended, it shall read:

- (3) Before any person, except those under 16 years of age hunting small game and waterfowl, may hunt on a wildlife management area or refuge, he must possess a permit as outlined below.
 - (a) A WMA Small Game permit is required on the following wildlife management areas and refuges:

AEDC	International Paper
Alpine Mountain	Jackson Swamp
Arnold Hollow WMA (IP tract Arnold Hollow - Wayne Co.)	Jarrell Switch Refuge
Bark Camp Barrens	John Tully
Barkley Units I & II	Kingston Refuge
Bean Switch Refuge	Kyker Bottoms Refuge
Beaverdam Creek WMA (IP tracts Samford & Doochin - Hickman Co.)	Laurel Hill
Big Sandy (including Gin Creek)	Lick Creek
Black Bayou Refuge	Lick Creek Bottoms
Bridgestone/Firestone Centennial Wilderness	Maness Swamp Refuge
Browntown WMA (IP tract Browntown - Wayne Co.)	Maple Springs Wetland
Buffalo Springs	Mingo Swamp Wetland
Camden Units I & II	Moss Island
Catoosa	MTSU
Cheatham	Natchez Trace
Cheatham Lake	New Hope
Chickamauga	Nolichucky
(Candies Creek, Johnson Bottoms, Rogers Creek, Yellow Creek Units)	North Chickamauga Creek
Chuck Swan	Oak Ridge
Cold Creek	Obion River
Cordell Hull	Old Hickory (Unit I)
Cordell Hull Refuge	Old Hickory Lock 5 Refuge
Cove Creek	Pea Ridge
C. M. Gooch	Percy Priest (Units I & II)
Cypress Pond	Perryville
Eagle Creek	Prentice Cooper
Eagle Lake Refuge	Rankin
Ernest Rice Sr.	Royal Blue
Foothills	Shelby Forest
Forks of the River	Shelton Ferry Wetland
Haley-Jaqueth	Sundquist
Harmon Creek	Tellico Lake
Haynes Bottom	Tie Camp WMA (IP tract Tie Camp - Wayne Co.)
Henderson Island Refuge	Tigrett
Hick Hill WMA (IP tract Boone - Lewis Co.)	Watts Bar (Long Island Unit)
Hickory Flat	West Sandy
Hiwassee Refuge	White Lake Refuge
Hop-In Refuge	White Oak
	Williamsport
	Wolf River
	Woods Reservoir Refuge
	Yanahli
	Yuchi Refuge at Smith Bend

A WMA small game permit is required for individuals participating in dog training. A field trial permit is required on Percy Priest WMA and the Tellico Lake – McGhee-Carson Unit.

- (b) A WMA Small Game and Waterfowl permit is required for hunting waterfowl on the following wildlife management areas and refuges:

AEDC	Jarrell Switch Refuge
Barkley Units I & II	Moss Island
Big Sandy (including Gin Creek	Lick Creek
Camden Units I & II	Lick Creek Bottoms
Cheatham Lake	Mingo Swamp Wetland
Chickamauga (Candies	Moss Island
Creek, Johnson Bottoms, Rogers Creek,	New Hope
Yellow Creek Units)	Nolichucky
Cold Creek	North Chickamauga Creek
Cordell Hull	Oak Ridge
Cordell Hull Refuge	Obion River
C.M. Gooch	Old Hickory (Unit I)
Ernest Rice Sr.	Shelby Forest
Harmon Creek	Tigrett
Haynes Bottom	Watts Bar (Long Island Unit)
Hiwassee Refuge	West Sandy
Jackson Swamp	White Oak
	Yanahli
	Yuchi Refuge at Smith Bend

- (c) A WMA big game permit is required for hunting deer, bear, boar, feral hogs, and turkey on the following wildlife management areas and refuges:

	Yellow Creek Units)
AEDC	Chuck Swan
Alpine Mountain	Cold Creek
Arnold Hollow WMA (IP tract Arnold Hol-	Cordell Hull
low - Wayne Co.)	Cordell Hull Refuge
Bark Camp Barrens	Cove Creek
Barkley Units I & II	Cypress Pond
Bean Switch Refuge	Eagle Creek
Beaverdam Creek WMA (IP tracts Samford	Eagle Lake Refuge
& Doochin - Hickman Co.)	Ernest Rice Sr.
Big Sandy (including Gin Creek	Fall Creek Fall State Park
Bridgestone/Firestone Centennial Wilder-	Foothills
ness	Forks of the River
Browntown WMA (IP tract Browntown -	Gallatin Steam Plant
Wayne Co.)	Harmon Creek
Buffalo Springs	Haynes Bottom
C. M. Gooch	Henderson Island Refuge
Camden Units I & II	Hick Hill WMA (IP tract Boone - Lewis Co.)
Catoosa	Hickory Flat
Cheatham	Hiwassee Refuge
Cheatham Lake	Hop-In Refuge
Cherokee	International Paper
Chickamauga (Candies	Jackson Swamp
Creek, Johnson Bottoms, Rogers Creek,	

Jarrell Switch Refuge	Percy Priest (Units I & II)
John Tully	Perryville
Kingston Refuge	Prentice Cooper
Laurel Hill	President's Island
Lick Creek	Rankin
Lick Creek Bottoms	Royal Blue
Lovell Field	Shelby Forest
Maness Swamp Refuge	Shelton Ferry Wetland
Maple Springs Wetland	Sundquist
Mingo Swamp Wetland	Tellico Lake
Moss Island	Tie Camp WMA (IP tract Tie Camp - Wayne
MTSU	Co.)
Natchez Trace	Tigrett
Nathan B. Forrest State Historical Area	Watts Bar (Long Island Unit)
New Hope	West Sandy
Nolichucky	White Lake Refuge
North Chickamauga Creek	White Oak
Oak Ridge	Williamsport
Obion River	Wolf River
Old Hickory (Unit I)	Woods Reservoir Refuge
Old Hickory Lock 5 Refuge	Yanahli
Pea Ridge	Yuchi Refuge at Smith Bend

- (d) A WMA Small Game or WMA Small Game and Waterfowl permit is required to trap on all areas that require a small game hunting permit.

Authority: T.C.A. §§70-1-206 and 70-4-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2004.
(03-14)

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CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning March 1, 2004 and ending March 31, 2004.

A handwritten signature in black ink, reading "Riley C. Darnell". The signature is written in a cursive style with a large, prominent "R" and "D".

RILEY C. DARNELL
Secretary of State

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