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TENNESSEE ADMINISTRATIVE REGISTER



June 15, 2004
Volume 30, Number 6

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RILEY C. DARNELL
Secretary of State

Division of Publications
8th Floor, Snodgrass Tower
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Department of State, Authorization No. 305197, 155 copies, June 2004. This public document was promulgated at a cost of \$ 3.79 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.

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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: Tennessee Environmental Council
2. Petitioner's Attorneys: Mark Anderson
Address: 1113 Morrow Ave.
Nashville, TN 37204

Telephone Number: (615)-269-3769

3. Background:

On February 2, 2004, the Department of Environment and Conservation issued a § 401 Water Quality Certification to Cumberland Yacht Harbor for the construction of a marina and condominiums. The development will involve excavating a 12.8 acre upland field for the marina. The applicant has proposed mitigation for the loss of the 2,900 linear feet of riparian vegetation along the mill creek bank, which includes onsite bank stabilization activities and public recreation and habitat conservation. In addition, 8.6 acres of the property has been set aside for public passive recreation and habitat conservation.

4. Summary of the relief requested:

The Petitioner has requested a ruling from the Board that this Certification violates the Tennessee Water Quality Control Act, T.C.A. §69-3-101 *et seq* in that the project is allegedly located on Mill Creek which is on the State's 303(d) list for impaired waters. Petitioner also raises the presence of the Nashville Crayfish as a reason to deny the certification.

The Board will convene a contested case hearing in this matter on August 24, 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:

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

Tom White
Tune, Enriken and White
Suite 2100, AmSouth Center
Nashville, TN 37238

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 July 2004 is 9.27 percent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the calculated rate is 5.27 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.

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-03	May 7, 2004	0400 Environment And Conservation Pollution Control	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-4-1 General</i> 1200-4-1-.01 Purpose 1200-4-1-.02 Water Quality Control Board Duties and Authority Procedures 1200-4-1-.03 Commissioner's Responsibilities And Authority 1200-4-1-.04 Information Procurement, Release and Distribution	Patrick N. Parker Alan M. Leiserson 20th Fl, L&C Twr 401 Church St Nashville TN 37243 (615) 532-0131	July 29, 2004
05-04	May 7, 2003	0400 Environment And Conservation Water Pollution Control	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-4-5 Permit Effluent Limitations and Standards</i> 1200-4-5-.01 Purpose 1200-4-5-.02 Definitions 1200-4-5-.03 Exclusions 1200-4-5-.04 Prohibitions 1200-4-5-.05 Permit Application, Issuance 1200-4-5-.06 Notice and Public Participation 1200-4-5-.07 Terms and Conditions of Permits 1200-4-5-.08 Effluent Limitations and Standards 1200-4-5-.09 Technology- Based Effluent Limitations 1200-4-5-.10 Water Quality-Based Permitting 1200-4-5-.11 Duration and Reissuance of Permits 1200-4-5-.12 Appeals/Citizen Complaints/ Declaratory Orders 1200-4-5-.13 Adoption of EPA-Issued Permits 1200-4-5-.14 Animal Feeding Operations	Patrick N. Parker Alan M. Leiserson 20th Fl, L&C Twr 401 Church St Nashville TN 37243 (615) 532-0131	July 21, 2004
05-05	May 11, 2004	0800 Labor Boiler and Elevator Inspection	Proposed Rules	Amendments	<i>Chapter 0800-3-4 Elevators, Dumbwaiters, Escalators, and Other Lifts</i> 0800-3-4-.03 Design, Installation, and Alterations 0800-3-4-.05 Operating Permits	Sydné Ewell Legal Counsel Labor and Workforce Development Andrew Johnson Twr 3rd Fl 710 J Robertson Pkwy, Nashville TN 37243-0663 (615) 741-4356	July 21, 2004

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-09	May 17, 2004	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-3-26</i> <i>Administrative Fees Schedule</i> 1200-3-26-.02 Construction And Annual Emission Fees	Mr. Ron Culberson Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville TN 37243-1531 (615) 532-0554	July 31, 2004
05-15	May 20, 2004	0120 Architectural and Engineering Examiners	Rulemaking Hearing Rules	Amendments	0120-1-.05 Applications – Engineer 0120-1-.14 Examinations – Engineer, Engineer 0120-1-.25 Renewal of Registration <i>Chapter 0120-5</i> <i>Continuing Education</i> 0120-5-.04 Basic Requirements 0120-5-.06 Types of Acceptable Continuing Education 0120-5-.08 Exceptions 0120-5-.10 Records	Christy A. Allen Regulatory Boards Fire Prevention and Administration 500 James Robertson Pkwy Davy Crockett Twr 5th Fl Nashville TN 37243 (615) 741-3072	Aug 3, 2004
05-16	May 20, 2004	1200 Health Board for Licensing Health Care Facilities th Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-10</i> <i>Standards for Ambulatory Surgical Treatment</i> <i>Centers</i> 1200-8-10-.01 Definitions	Ernest Sykes, Jr. Health OGC 26th fl TN Twr 212 8th Ave N Nashville TN 37247-0120 615-532-7156	Aug 3, 2004
05-17	May 24, 2004	1200 Health Board for Licensing Health Care Facilities Division of Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-6</i> <i>Standards for Nursing Homes</i> 1200-8-6-.03 Disciplinary Procedures <i>Chapter 1200-8-25</i> 1200-8-6-.04, Administration Standards for Assisted-Care Living Facilities 1200-8-25-.05 Admissions, Discharges, and Transfers	Ernest Sykes, Jr. Health OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-532-7156	August 7, 2004
05-18	May 24, 2004	1200 Health Board for Licensing Health Care Facilities Division of Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-1</i> <i>Standards for Hospitals</i> 1200-8-1-.06 Basic Hospital Functions 1200-8-1-.11 Records and Reports	Ernest Sykes, Jr. Health OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-532-7156	August 7, 2004

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-19	May 25, 2004	0440 Cosmetology	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0440-1 Licensing</i></p> <p>0440-1-.01 Requirements for School License 0440-1-.04 High School Equivalents 0440-1-.05 Requirements for Schools 0440-1-.07 Student Kits 0440-1-.09 Examination Passing Scores and School Attendance ratio 0440-1-.11 Teacher Training Programs 0440-1-.13 Fees</p> <p><i>Chapter 0440-2 Sanitary Rules</i></p> <p>0440-2-.01 Definitions 0440-2-.03 Responsibility for Compliance 0440-2-.04 Posting of Rules and Licenses 0440-2-.07 Equipment 0440-2-.13 Sterilization and Sanitation</p> <p>New Rules</p> <p>0440-2-.16 Skin Peeling and Invasive Procedures 0440-2-.17 Prohibited Hazardous Substances and Use of Products</p>	Marilynn A. Tucker Commerce & Ins Office of Legal Counsel 500 J Robertson Pkwy D Crockett Twr 5th Fl Nashville TN 37243 (615) 741-3072	August 8, 2004
05-21	May 26, 2004	1730 Veterinary Medical Examiners	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1730-1 General Rules Governing Veterinarians</i></p> <p>1730-1-.04 Qualifications for Licensure 1730-1-.05 Procedures for Licensure 1730-1-.06 Fees 1730-1-.08 Examinations 1730-1-.13 Unprofessional Conduct 1730-1-.18 Mandatory Release of Client Records 1730-1-.22 Recordkeeping</p> <p><i>Chapter 1730-2 General Rules Governing Veterinary Facilities</i></p> <p>1730-2-.04 Recordkeeping 1730-2-.07 Mobile Facility / Satellite Veterinary Clinics / Emergency Hospitals / House Calls 1730-2-.10 Radiology 1730-2-.13 Unprofessional Conduct of a Premises Owner and/or Veterinarian</p>	Nicole Armstrong Health Bds OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-741-1611	August 9, 2004

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-21, cont					<p><i>Chapter 1730-3</i> <i>General Rules Governing Veterinary Medical Technicians</i> 1730-3-.13 Unprofessional Conduct</p> <p><i>Chapter 1730-5</i> <i>General Rules Governing Certified Animal Euthanasia Technicians</i> 1730-5-.11 Unprofessional Conduct</p> <p>Repeal 1730-2-.11, Animal Quarters</p>		
05-23	May 26, 2004	1200 Health Bureau of Health Services Administration Communicable and Environmental Disease Services	Emergency Rules	Amendments	Chapter 1200-14-1 Communicable Diseases 1200-14-1-.02, Notifiable Diseases	Richard F. Russell, Esq. OGC 26th Fl TN Twr 312 Eighth Ave N Nashville TN 37247-0120 (615) 741-1611	May 26, 2004 through Nov 7, 2004
05-26	May 27, 2004	1200 Health Licensing Health Care Facilities Health Care Facilities	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-8-26</i> <i>Standards for Home Care Organizations Providing Home Health Services</i> 1200-8-26-.01 Definitions</p> <p><i>Chapter 1200-8-29</i> <i>Standards for Home Care Organizations Providing Home Medical Equipment</i> 1200-8-29-.01 Definitions</p> <p><i>Chapter 1200-8-34</i> <i>Standards for Home Care Organizations Providing Professional Support Services</i> 1200-8-34-.02 Licensing Procedures</p>	Ernest Sykes, Jr. Health OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-532-7156	Aug 10, 2004
05-30	May 28, 2004	1000 Nursing	Rulemaking Hearing Rules	Amendment New Rules	<p><i>Chapter 1000-4</i> <i>Nurse Practitioners</i></p> <p>1000-4-.01 Purpose and Scope 1000-4-.02 Definitions 1000-4-.03 Advanced Practice Nurse Certificate 1000-4-.04 Certificate of Fitness 1000-4-.05 Temporary Certificate of Fitness 1000-4-.06 Fees 1000-4-.07 Processing of Applications</p>	Richard Russell OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-741-1611	Aug 11, 2004

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-30, cont				Repeals	1000-4-.01 Purpose and Scope 1000-4-.02 Processing of Applications 1000-4-.03 Qualifications 1000-4-.04 Temporary Certificate of Fitness 1000-4-.05 Repealed		
05-31	May 28, 2004	0460 Dentistry	Rulemaking Hearing Rules	Amendments	<i>Chapter 0460-1 General Rules</i> 0460-1-.12 Unprofessional Conduct <i>Chapter 0460-2 Rules Governing the Practice of Dentistry</i> 0460-2-.11 Regulated Areas of Practice	Ernest Sykes, Jr OGC 26th Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, TN 37247-0120, (615) 741-1611	Aug 11, 2004

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

Applications will be heard at the July 28, 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 May 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.

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

NAME AND ADDRESS

DESCRIPTION

Cool Springs Institute, LLC
Bakers Bridge Avenue
Franklin (Williamson County), TN 37067
CN0403-026
Contact Person: Charles W. Bone, Esq.
Phone No. 615-238-6300

The establishment of a general hospital to be located on property to which an address has not yet been assigned on Bakers Bridge Avenue near the intersection of Carothers Parkway in Franklin, Williamson County, Tennessee, which will provide comprehensive disease management for breast disease and obesity and offer all types of plastic and reconstructive surgery. The facility will contain twenty-four (24) beds, an emergency room, computerized tomography (CT), a digital mammography suite with computer-assisted diagnosis, a magnetic resonance imaging (MRI) unit, a linear accelerator (LA) and will include nine operating rooms. The licensed inpatient bed capacity will be as follows: six (6) medical beds, fourteen (14) medical/surgical beds and four (4) critical care unit beds.

\$ 32,862,414.00

NAME AND ADDRESS	DESCRIPTION
<p>Volunteer Home Care of Middle Tennessee d/b/a Quality First Home Care 1623 Hatcher Lane Columbia (Maury County), TN 38401 CN0404-029 Contact Person: Anita Porter, RN, Director of Clinical Services Phone No. 931-629-6335</p>	<p>The relocation of the parent office from 919 E. College Street, Pulaski (Giles County), TN 38478 to 1623 Hatcher Lane, Columbia (Maury County), TN 38401. The five (5) county service area (Maury, Marshall, Lawrence, Lincoln and Giles Counties) will remain unchanged. The health services currently provided by this home care organization will remain unchanged. \$ 6,000.00</p>
<p>St. Mary's Health System, Inc. 900 East Oak Hill Avenue Knoxville (Knox County), TN 37917 CN0404-032 Contact Person: Jeremy H. Biggs, Assistant Vice President Phone No. 865-545-7959</p>	<p>The establishment of a seventy-two (72) acute care inpatient bed satellite hospital operating under existing contracts, licensure and provider number of St. Mary's Health System, Inc. The new acute care facility will be located on St. Mary's 50 acre site on Dannaher Lane and Emory Road in North Knox County, Tennessee. The facility will be approximately 181,837 gross square feet. The bed complement will be as follows: sixty (60) medical/surgical beds and twelve (12) intensive care beds. The facility will have four (4) operating rooms, two (2) procedure rooms, and an emergency department. The project will include the initiation of diagnostic cardiac catheterization services and other support services. The inpatient expansion will be connected to the existing ancillary space of St. Mary's North: Women's Cancer and Imaging Center. St. Mary's will reduce its bed complement by seventy-two (72) medical/surgical beds at its main campus on 900 East Oak Hill Avenue, Knoxville, TN 37917. \$ 63,952,803.00</p>
<p>Premier Radiology Pain Management Center 28 White Bridge Road, Suite 104 Nashville (Davidson County), TN 37205 CN0404-037 Contact Person: John Wellborn, Consultant Phone No. 615-665-2022</p>	<p>The establishment of a freestanding ambulatory surgical treatment center (ASTC) limited to pain management services. The facility will be developed in 2,426 square feet of leased space on the first floor of the existing building within space presently leased by Premier Radiology, with whom the facility will share use of 1,576 square feet of support space. The facility will serve only patients referred to Premier Radiology. The facility will contain two (2) operating/procedure rooms. \$ 1,663,823.00</p>

NAME AND ADDRESS	DESCRIPTION
<p>Tri-Cities Surgery Center 1 Medical Park West, Bristol West Boulevard Bristol (Sullivan County), TN 37620 CNO404-038 Contact Person: Jerry W. Taylor, Esq. Phone No. 615-726-1200</p>	<p>The establishment of an ambulatory surgical treatment center (ASTC) in 6,000 square feet of space which is currently under construction on the campus of Bristol Regional Medical Center. The ASTC, owned by Bristol Spine Center, LLC, and managed by NeoSpine Management Services, LLC, will contain two (2) operating rooms and one (1) treatment room. \$3,495,000.00</p>
<p>Knoxville Neurology Clinic, PLLC 2607 Kingston Pike, Suite 1 Knoxville (Knox County), TN 37920 CN0404-035 Contact Person: Michael D. Brent, Esq. Phone No. 615-252-2361</p>	<p>The purchase of a magnetic resonance imaging (MRI) scanner and the initiation of MRI services in a shared arrangement with Neurosurgical Associates, P.C. The MRI services will be provided as a clinical ancillary service of Knoxville Neurology Clinic physician group practice. The total estimated cost is \$2,629,455. Knoxville Neurology Clinic is responsible for one half of the project cost which is estimated at \$1,314,727.50. \$ 1,314,727.50</p>
<p>Neurosurgical Associates, P.C. 2607 Kingston Pike, Suite 1 Knoxville (Knox County), TN 37920 CN0404-036 Contact Person: Michael D. Brent, Esq. Phone No. 615-252-2361</p>	<p>The purchase of a magnetic resonance imaging (MRI) scanner and the initiation of MRI services in a shared arrangement with Knoxville Neurology Clinic, PLLC. The MRI services will be provided as a clinical ancillary service of Neurosurgical Associates' physician group practice. The total estimated cost is \$2,629,455. Neurosurgical Associates is responsible for one half of the project cost which is estimated at \$1,314,727.50. \$ 1,314,727.50</p>

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EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0080 - Department of Agriculture - Regulatory Services - Emergency rules stopping the movement of certain varieties of nursery stock into the state of Tennessee which are derived from the state of California, chapter 0080-6-1 Rules and Regulations Governing Nurseries Dealers and Agents, 4 T.A.R. (April 2004) - Filed March 25, 2004; effective September 6, 2004 (03-08)

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

CHAPTER 1200 14-1 COMMUNICABLE DISEASES

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to Tennessee Code Annotated § 4-5-208, I am promulgating emergency rules covering reporting of diseases to public health authorities.

I have made a finding that there is an emergency creating a threat to the public welfare for the reasons set forth below:

On April 23, 2004, the Centers for Disease Control and Prevention (CDC) reported the third U.S. patient with vancomycin resistant *Staphylococcus aureus* (VRSA), an essentially untreatable bacterial infection. This antimicrobial resistant organism was first identified in 2002 and can emerge whenever the less virulent, but highly resistant, vancomycin resistant *Enterococcus* (VRE) shares its resistance gene with methicillin resistant *Staphylococcus aureus* (MRSA). In Tennessee, conditions are favorable for the development of VRSA in hospitals and healthcare facilities for the chronically ill where MRSA and VRE already co-exist. Immediate reporting of any *Staphylococcus aureus* isolate not susceptible to vancomycin in Tennessee is urgently needed because such a finding will necessitate immediate local, state and national public health response to prevent the catastrophic consequences of further spread of this new and untreatable bacterium in the population.

In light of the emergence of VRSA, it is imperative that the Department conduct effective surveillance for invasive disease caused by the bacteria that form the building blocks of VRSA: vancomycin resistant Enterococcus (VRE) and methicillin resistant Staphylococcus aureus (MRSA). Since VRE was added to the notifiable disease list, many, but not all, hospitals have begun infection control programs that include routine screening and isolation of high-risk patients with MRSA and VRE on their skin, even though the organisms are not causing illness (“colonization”). Colonization has become almost commonplace in some high-risk settings. The Department’s priority is now to monitor, investigate, and intervene only in cases of invasive disease caused by MRSA and VRE. Tracking these illnesses is vital to the Department’s mission to detect locations where conditions are favorable for the development of VRSA or other untreatable infections. The addition of MRSA invasive infections to the notifiable diseases list also is urgent because the nation is facing a rapidly growing public health threat from community-acquired MRSA infections causing serious illness and death in otherwise healthy people who have not been exposed to a hospital. The Centers for Disease Control and Prevention (CDC) has recently reported outbreaks in schools, professional sports teams, and correctional facilities; it now considers community-acquired MRSA a major public health threat, requiring swift public health action to stop outbreaks and prevent deaths.

Guillain-Barre syndrome (GBS) is a rare and life-threatening form of temporary paralysis. Recent research by CDC and others has clearly linked GBS to foodborne illness caused by Campylobacter bacteria. The CDC now considers this syndrome a sentinel event necessitating public health investigation and action; it has made detection and investigation of GBS an important priority. By acting now to require reporting of this rare condition, the Department will be able to use a vital new tool both to detect and control foodborne bacterial illness outbreaks and reduce the public health threat of Campylobacter-associated GBS.

For copies of the entire text of the proposed amendments, contact: Timothy F. Jones, MD, Communicable and Environmental Disease Services, Fourth Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37247 3901, (615) 741-7247.

Wendy Long, M.D.
Deputy State Health Officer
Tennessee Department of Health

The text of the proposed amendments is as follows:

\AMENDMENTS

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), is amended by inserting a new subparagraph (t) and renumbering the existing subparagraph (t), Haemophilus Influenzae Invasive Disease, as (u), and further renumbering subsequent subparagraphs accordingly. New subparagraph (t) shall read as follows:

- (t) Guillain-Barre Syndrome

Authority: T.C.A. §§ 4-5-208 and 68-5-104(a).

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), is amended by deleting the existing language contained in subparagraph (xx) and substituting instead the following language in an appropriately numbered subparagraph:

- () Staphylococcus aureus

1. Methicillin resistant Invasive Disease
2. Vancomycin non-sensitive – all forms
3. Staphylococcal Enterotoxin B Pulmonary Poisoning**

Authority: T.C.A. §§4-5-208 and 68-5-104(a).

Rule 1200-14-1-.02, Notifiable Diseases, paragraph (1), is amended by deleting the existing language contained in subparagraph (fff) and substituting instead the following language in an appropriately numbered subparagraph:

- () Vancomycin Resistant Enterococci (VRE) Invasive Disease

Authority: T.C.A. §§4-5-208 and 68-5-104(a).

The emergency rules set out herein were properly filed in the Department of State on the 26th day of May, 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 7th day of November, 2004. (05-23)

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PROPOSED RULES

THE TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800 DIVISION OF BOILER AND ELEVATOR INSPECTION ELEVATOR SAFETY BOARD

CHAPTER 0800-3-4 ELEVATORS, DUMBWAITERS, ESCALATORS, AND OTHER LIFTS

Presented herein are proposed amendments of the Department of Labor and Workforce Development, Division of Boiler and Elevator Inspection, Elevator Safety Board, submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Legal Division of the Department of Labor and Workforce Development, Andrew Johnson Tower, 2nd Floor, 710 James Robertson Parkway, Nashville, Tennessee 37243, and in the Administrative Procedures Division of the Department of State, William R. Snodgrass Tennessee Tower, 8th Floor, 312 8th Avenue North, Nashville, Tennessee, 37243-0310, 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 amendments, contact Mr. Gary Cookston, Director, Division of Boiler and Elevator Inspection, Tennessee Department of Labor and Workforce Development, Andrew Johnson Tower, 3rd Floor, 710 James Robertson Parkway, Nashville, Tennessee 37243-0663, telephone: (615) 532-1929.

The text of the proposed amendments is as follows:

AMENDMENTS

Subparagraphs (a) and (b) of Paragraph (2) of Rule 0800-3-4-.03 Design, Installation, and Alterations are amended by deleting that language entirely and substituting the following language, so that as amended the rule shall read:

- (2) Existing Installations.
 - (a) Existing elevators, dumbwaiters, escalators, and other lifts, at a minimum shall meet the requirements of the Safety Code for Existing Elevators and Escalators, ASME A17.3 – 1996, Fourth Edition as defined by paragraph (8) of Rule 0800-3-4-.01 except as modified herein. Rule 211.3 Firefighters' Service – Automatic Elevators shall read as follows: All automatic (nondesignated attendant) operation elevators having a travel of 70 feet or more above or below the designated level shall conform to the requirements of this Rule. See ASME A17.1 – 1987, Appendix C, Rules 211.3 – 211.8. If an existing installation does not meet the requirements of the Safety Code for Existing Elevators and Escalators, as modified, it shall be upgraded. If an existing installation was required to meet more stringent requirements, it shall continue to meet those requirements.

Every installation shall be maintained in a safe operating condition and shall be subject to inspections and tests specified in this Chapter.

- (b) All modifications as required to comply with subparagraph (a) of paragraph (2) shall be initiated as soon as possible, and shall be completed no later than April 30, 2007.

Authority: T.C.A. §§4-5-202 (a)(3) and 68-121-103(a)(4).

Subparagraphs (a), (b), (c), and (d) of Paragraph (3) of Rule 0800-3-4-.03 Design, Installation, and Alterations are amended by deleting that language entirely and substituting the following language, so that as amended the rule shall read:

- (3) Alteration of Existing Installations.
 - (a) Any alteration made to existing installations shall meet the requirements as set out in the Safety Code for Existing Elevators and Escalators as modified by subparagraph (a) of paragraph (2), or must be altered in accordance with exceptions granted by the Board. All requests for exceptions shall be submitted to the Board in writing no later than thirty (30) days prior to the next regularly scheduled or called meeting of the Board. All duly filed requests for exceptions shall be considered by the Board at the next regularly scheduled or called meeting of the Board. All modifications as required to comply with this subparagraph shall be subject to the initiation period stated in subparagraph (b) of paragraph (2) of this rule.
 - (b) A permit is required for the replacement elevator controllers and driving machines requiring the replaced components to meet as a minimum ASME A17.3 – 1996 or the code under which it was originally inspected. If speed, stop, rise, or capacity is changed, this would require a permit and be inspected under ASME A17.1.
 - (c) Other combinations of elevator replacement and repair of existing installations shall be considered a minor alteration, and shall at all times comply with Part XII, Section 1200 of the Elevator Safety Code. If the contractor or owner determines that an inspection of a minor alteration pursuant to Rule 0800-3-4-.04 of this Chapter is appropriate, the contractor or owner shall direct such request for inspection to the local state elevator inspector, and pay the applicable fee provided in Rule 0800-3-10-.01.

Authority: T.C.A. §§4-5-202(a)(3) and 68-121-103(a)(4).

Rule 0800-3-4-.05 Operating Permits is amended by deleting the rule in its entirety and substituting the following language, so that as amended the rule shall read:

- (1) Issuing of Permits.
 - (a) Operating permits shall be issued by the Commissioner, within the time limits hereafter specified, to the owner or lessee of every new elevator, dumbwaiter and escalator, and of every existing elevator and escalator, where the inspection report indicates compliance with this Chapter, provided that no permit shall be issued if the fees required by this Chapter have not been paid. Said time limits shall be thirty (30) days for existing elevators and escalators, and seven (7) days for new elevators, dumbwaiters and escalators, after the required date for filing

the inspection report required by Rule 0800-3-4-.04(4), unless such time is extended by the Commissioner. No elevator, dumbwaiter or escalator, for which such permit is required, shall be operated by the owner or lessee thereof after the dates specified in this subparagraph, unless such operating permit has been issued.

- (b) The operating permit shall be issued for the period covered by the inspection required by Rules 0800-3-4.04(1) and 0800-3-4-.04(2) and shall state the contract load and speed for such elevator, dumbwaiter or escalator. It shall be extended by endorsement of the Commissioner or his duly appointed agent after each periodic inspection required by Rule 0800-3-4-.04(3).
 - (c) If the inspection report, required by Rule 0800-3-4-.04(4) indicates failure of compliance with the applicable requirements of this Chapter or with the detailed plans and specifications approved by the Department under Rule 0800-3-4-.02(5), the Commissioner shall give notice to the owner or lessee or the person or persons filing such plans and specifications of changes necessary for compliance therewith. After such changes have been made, the Commissioner shall issue an operating permit.
 - (d) If the inspection report, required by Rule 0800-3-4-.04(4) indicates that an elevator or escalator is in an unsafe condition, so that its continued operation may be dangerous to the public safety, then the Commissioner may, at his discretion, require the owner or lessee to discontinue the use of such elevator or escalator until it has been made safe and in conformity with the requirements of this Chapter.
 - (e) If the Commissioner has reason to believe that any owner or lessee to whom an operating permit has been issued is not complying with the applicable rules of this Chapter, he shall so notify such owner or lessee, and shall give notice of the date, time, and location for a hearing hereon to such owner or lessee. If, after such hearing, he shall find that such owner or lessee is not complying with such rules and regulations, he shall revoke such permit.
- (2) Serial Number Shown on Permits. Permits shall show the serial number of the elevator, dumbwaiter, escalator, or other lift for which they are issued, as required in Rule 0800-3-4-.02(4), Numbering of Elevators, Dumbwaiters, Escalators and Other Lifts.
 - (3) Posting of Permits. The required permit, or a sign designating where such permit is located, shall be posted in a conspicuous location in the elevator car, or on or near the escalator, dumbwaiter, or other lift.
 - (4) Temporary Permit. The Commissioner or his duly appointed agent may permit the temporary use of any elevator, dumbwaiter, escalator, or other lift for freight service during its installation under the authority of a temporary permit for each class of service. In the case of elevators, such temporary permit shall not be issued until the elevator shall have been tested under the contract load, and the car safety and terminal stopping equipment have been tested to determine the safety of the equipment.
 - (5) Life of Temporary Permit. Temporary permits shall be issued for a period not to exceed thirty (30) days and may be renewed at the discretion of the Commissioner or his duly appointed agent.
 - (6) Posting of Temporary Permits. Where a temporary permit is issued, a notice bearing the information that the equipment has not been finally approved shall be conspicuously posted on, near, or visible from each entrance to such elevator, dumbwaiter, escalator, or other lift.

Authority: T.C.A. §§4-5-202(a)(3), 68-121-101, 68-121-103, 68-121-104, 68-121-105, 68-121-107, 68-121-108, 68-121-109, 68-121-111, and 68-121-115.

The proposed rules set out herein were properly filed in the Department of State on the 7th day of May, 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 21st day of July, 2004. (05-05)

PUBLIC NECESSITY RULES

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

- 0620 - Department of Finance and Administration - Bureau of TennCare - Public necessity rules implementing the provisions of any federal waiver or state plan amendment obtained pursuant to the Medical Assistance Act as amended by Acts 1993 - 5 T.A.R. (May 2004) - Filed April 28, 2004; effective through October 10, 2004. (04-20)

- 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)

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RULEMAKING HEARINGS

DEPARTMENT OF COMMERCE AND INSURANCE - 0780 DIVISION OF FIRE PREVENTION

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to consider the promulgation of amendments of rules pursuant to T.C.A. §§ 68-102-113 and 68-120-101. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Room 160 on the first floor of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on the 11th day of August, 2004.

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

For a copy of this notice of rulemaking hearing, contact Randy Safer, Director of the Codes Enforcement Section of the Division of Fire Prevention at 500 James Robertson Parkway, Davy Crockett Tower, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-7190.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-2-3 REVIEW OF CONSTRUCTION PLANS AND SPECIFICATIONS

AMENDMENTS

Subparagraph (d) of paragraph (1) of rule 0780-2-3-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (1) (d) Educational occupancy means the use of a building or structure, or a portion thereof, for educational purposes by six (6) or more persons for four (4) or more hours per day or more than twelve (12) hours per week. Educational occupancy includes part-day nursery schools and day care centers licensed by the Department of Human Services or licensed by the Department of Education, and all other schools including kindergarten through twelfth grade.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Subparagraph (e) of paragraph (1) of rule 0780-2-3-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (1) (e) Detention and correctional occupancy, business occupancy, residential occupancy, place of assembly and covered mall shall be defined as in the 2003 edition of the Life Safety Code (NFPA No. 101-2003). High hazard industrial facility shall be defined as in the 1999 edition of the Standard Building Code for subclasses H-1 and H-2 only. Storage of high hazard materials shall not be considered as a high hazard industrial occupancy.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (1) of rule 0780-2-3-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) After the effective date of this chapter, no person shall commence construction of any educational occupancy which is licensed by the Department of Education or detention and correctional occupancy or state building until plans and specifications therefore have been submitted to and approved in writing by the Division. The Division shall also review plans submitted for review of day care centers which are licensed by the Department of Human Services and the Department of Education.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (2) of rule 0780-2-3-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) After January 1, 1983, no person shall commence construction of any place of assembly having a capacity of 300 or more persons until plans and specifications therefor have been submitted to and approved in writing by the Division.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (7) of rule 0780-2-3-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (7) Notwithstanding the foregoing paragraphs of this rule, any construction requiring approval by the Division may be undertaken prior to approval of final plans and specifications if:
 - (a) The Division has received a written request for a phased or fast-track approval;
 - (b) drawings adequately describing the nature and scope of the project have been submitted to the Division;
 - (c) a plans review submittal form and the entire review fee have been received;
 - (d) complete plans and specifications for only that phase of construction to be undertaken have been submitted to the Division; and
 1. the Division has approved such plans and specifications in writing; or
 2. the Division has failed to transmit a written evaluation of such plans and specifications within twenty-one (21) working days after receipt thereof.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (8) of rule 0780-2-3-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (8) Resubmission of the complete plans and specifications for any proposed project which is identical in structure and interior arrangement to a project previously reviewed and approved in accordance with this chapter is required; however, only one half of the normal the review fee will be charged. No further reductions in the review fee will be allowed.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Rule 0780-2-3-.04 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) The fee for review of plans and specifications for construction shall be as specified in the following table:

Total Project Construction Cost	Fee
\$0.00 to \$1,000,000.00	\$2.00 per thousand or fraction thereof (\$200.00 minimum).
\$1,000,000.01 or more	\$2,000.00 for the first \$1,000,000.00 plus \$1.50 for each additional thousand or frac tion thereof.

Such fee shall be payable in full at the time of initial submission of plans and specifications.

- (a) If a State building or educational occupancy is also reviewed for compliance with building construction safety standards by a local government which has obtained the exemption authorized by T.C.A. §68-18-101(2) (b), the fee for review under this chapter shall be reduced by fifty percent (50%), but the fee shall not be less than two hundred dollars (\$200.00). Review fees for plans being submitted under Chapter 0780-2-3-.02(8) shall not be further reduced.
 - (b) If plans and specifications must be resubmitted because their approval has become invalid under paragraph (3) of rule 0780-2-3-.05, the fee established in this rule will be imposed.
- (2) The Division may require appropriate documentation of costs (such as contractors' bids or invoice) if:
 - (a) in the Division's opinion, the construction cost of a project has been underestimated in the certification submitted pursuant to rule 0780-2-3-.03(3); or
 - (b) the scope of a project is substantially revised after the initial plans submission.

After initial review, if such documentation warrants an additional plans review charge it shall be computed, assessed, and paid promptly.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (2) of rule 0780-2-3-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) The Division will not begin review of plans and specifications unless a plans review submittal form and the entire applicable fee for plans review has been received by the Division.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (4) of rule 0780-2-3-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (4) A copy of the approved plans and specifications shall be placed on the job site prior to the commencement of construction and shall be retained on the job site until a certificate of occupancy has been issued by the Division.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (1) of rule 0780-2-3-.08 Local Exclusions is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) This chapter shall not apply to any building, other than state buildings, educational occupancies, and occupancies requiring an inspection by the Division prior to initial licensure located within the jurisdiction of a local government which is exempt from the Division's building construction safety standards under T.C.A. § 68-120-101.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Rule 0780-2-3-.09 Exemptions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

This chapter shall not apply to any building or facility which is exempt from the Division's building construction safety standards under T.C.A. §68-120-101.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Subparagraph (d) of paragraph (2) of rule 0780-2-3-.10 Certificate of Occupancy is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (d) the names of the building owner, contractor, plans reviewer who approved the project, and project architect or engineer.

Authority: T.C.A. §§68-102-113 and 68-120-101.

Paragraph (4) of rule 0780-2-3-.10 Certificate of Occupancy is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (4) A certificate of occupancy for a change in the occupancy classification of an existing building may be obtained by applying to the Division and supplying the information and data necessary to determine compliance with the standards adopted by reference in rule 0780-2-2-.01. When deemed necessary by the

Division, two (2) sets of detailed drawings for review and approval, or a general inspection, or both, may be required.

Authority: T.C.A. §§68-102-113 and 68-120-101.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of May, 2004. (05-28)

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

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation rules pursuant to T.C.A. § 68-102-113(a). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in room 640 of the Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee 37243 at 10:00 a.m. (Central Standard Time) on the 16th day of July, 2004.

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

For a copy of this notice of rulemaking hearing, contact: Gerard H. Rudden, Director of the Bomb and Arson Section, 500 James Robertson Parkway, Davy Crockett Tower, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-3030.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 0780-2-19
FORFEITURE PROCEEDINGS**

NEW RULES

TABLE OF CONTENTS

0020-2-19-.01 FORFEITURE PROCEDURES.

- (1) The Department of Commerce and Insurance adopts by reference the procedures set forth in T.C.A. §§ 40-33-203 through 40-33-213 to conduct forfeiture hearings for all vehicles or property used by the owner or co-owner in the commission of an arson offense under T.C.A. §§ 39-14-301, 39-14-302 or 39-14-303, and anything of value received as compensation for the commission of the offense of arson that is seized or confiscated in the commission of the crime of arson.
 - (a) The hearing will be before the Commissioner of the Department of Commerce and Insurance or his or her appointed or designated hearing officer. The hearing may also be conducted by an Administrative Law Judge.
 - (b) The seizing authority will conduct the forfeiture hearings on behalf of the Department of Commerce and Insurance.
 - (c) The cost of the forfeiture hearing, including the cost of the prosecuting attorney will be paid from the proceeds of the forfeiture.
 - (d) The remaining proceeds of such forfeitures and sales with respect to such forfeitures after the hearing and attorney costs have been paid shall be allocated to the appropriate law enforcement agencies responsible for such confiscation or seizure as expendable receipts for use in the enforcement of laws regulating arson prevention.

Authority: T.C.A. §§ 39-14-307, 40-33-203, 40-33-204, 40-33-205, 40-33-206, 40-33-207, 40-33-208, 40-33-209, 40-33-210, 40-33-211, 40-33-212, 40-33-214, 40-33-213 and 68-102-113(a).

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of May, 2004. (05-29)

BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-17-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 3rd day of August, 2004.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1370-1-.01, Definitions, is amended by deleting paragraph (11) in its entirety and substituting instead the following language, so that as amended, the new paragraph (11) shall read:

- (11) Clinical Fellow – A Speech Language Pathologist or Audiologist who is in the process of obtaining his paid professional experience as defined by ASHA before being qualified for licensure. For the purposes of this chapter, a Clinical Fellow includes audiology students who are in their fourth (4) year of graduate studies.

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

Rule 1370-1-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (e), (2) (f), and (3) (i) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (e), (2) (f), and (3) (i) shall read:

- (1) (e) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
- (2) (f) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
- (3) (i) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-110, 63-17-111, 63-17-112, and 63-17-113.

Rule 1370-1-.07, Application Review, Approval, and Denial, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, and is further amended by deleting paragraph (8) in its entirety, so that as amended, the new paragraph (5) shall read:

- (5) If an application is incomplete when received in the Board’s Administrative Office, or the reviewing Board member determines additional information is required from an applicant before an initial determination can be made, the applicant shall be notified and the necessary information requested by the Administrative Office. The applicant shall cause the requested information to be received in the Board’s Administrative Office on or before the sixtieth (60th) day after receipt of the notification.

- (a) If the requested information is not received within the sixty (60) day period, the application file shall be closed and the applicant notified that the Board will not consider licensure until a new application is received pursuant to the rules governing that process, including another payment of all applicable fees.
- (b) Once a file has been closed, no further Board action will take place until a new application is submitted. Failure to complete all forms, provide requested information, submit all fees, take or retake required examinations within the specified time frame will be just cause for the application file to be closed. This action may be made by the Board's Unit Director.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-110, 63-17-111, 63-17-112, 63-17-113, and 63-17-115.

Rule 1370-1-.10, Clinical Fellowships and Supervision, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) shall read:

- (5) Supervision limitations
 - (a) Supervising licensees shall supervise no more than three (3) Clinical Fellows concurrently.
 - (b) Supervising licensees shall supervise no more than two (2) Speech Language Pathology Assistants concurrently.
 - (c) Supervising licensees shall supervise no more than three (3) individuals concurrently.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-103, 63-17-105, and 63-17-114.

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

- (2) (c) Notice of employment, change of supervisors, or termination of any SLPA must be forwarded by the Supervising Licensee to the Board's Administrative Office within thirty (30) days of such action.
- (2) (h) Supervision limitations
 - 1. Supervising licensees shall supervise no more than two (2) Speech Language Pathology Assistants concurrently.
 - 2. Supervising licensees shall supervise no more than three (3) Clinical Fellows concurrently.
 - 3. Supervising licensees shall supervise no more than three (3) individuals concurrently.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, and 63-17-114.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of May, 2004. (05-01)

**BOARD FOR PROFESSIONAL COUNSELORS, MARITAL
AND FAMILY THERAPISTS - 0450**

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 10th day of August, 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 0450-2-.01, Definitions, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) shall read:

- (5) Approved Supervisor - MFT - A person who is an AAMFT Approved Supervisor or Supervisor-In-Training whose qualifications meet AAMFT standards, pursuant to rule 0450-2-.10.

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

Rule 0450-2-.10, Supervision, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) In order to document an applicant's qualifications as a marital and family therapist and to meet standards comparable to those set by the American Association for Marriage and Family Therapy, the applicant shall present evidence at the time the application is submitted of supervision by an AAMFT Approved Supervisor or Supervisor-In-Training whose qualifications meet AAMFT standards. The supervision may be direct supervision by an AAMFT Approved Supervisor or Supervisor-In-Training who is monitoring the performance of one (1) or two (2) person's interaction with a client, or in a group setting. However, no more than one half (½) of the required supervision hours may be in a group setting. Unless otherwise defined by the AAMFT, a group setting may not consist of more than six (6) supervisees.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-106, 63-22-107, and 63-22-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of May, 2004. (05-08)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 24th day of August, 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 0460-1-.01, Definitions, is amended by adding the following language as a new, appropriately numbered and alphabetized paragraph and renumbering the remaining paragraphs accordingly:

- () Mobile Dental Clinic – Any self-contained clinic or unit which may be moved, towed, transported or utilized on a permanent or temporary basis to an out-of-office location in which dentistry is practiced. The out-of-office location may include, but is not limited to, schools, nursing homes, or other institutions.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-108.

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting parts (6) (a) 1., (6) (b) 1., (6) (b) 2., and (6) (b) 3. in their entirety and substituting instead the following language, so that as amended, the new parts (6) (a) 1., (6) (b) 1., (6) (b) 2., and (6) (b) 3. shall read:

- (6) (a) 1. If the license has been retired for less than two (2) years, the licensee must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of one half (½) the number of hours of approved dental-related continuing education required by subparagraphs (1) (a) and (1) (b) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
- (6) (b) 1. If the registrant has been retired for less than two (2) years, the registrant must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of one-half (½) the number of hours of approved dental-related continuing education required by subparagraph (1) (c) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.

- (6) (b) 2. If the registrant has been retired for a period of two (2) years or more, but less than five (5) years, the registrant must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twelve (12) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.
- (6) (b) 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty-four (24) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, and 63-5-117.

Rule 0460-1-.14, Repealed, is amended by deleting the catchline and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (1) through (8):

0460-1-.14 MOBILE DENTAL CLINICS.

- (1) Mobile dental clinics shall be operated/owned only by a dentist licensed in Tennessee, an official agency of the state government or any subdivision thereof, any nonprofit organization, or any hospital. Dental hygienists and dental assistants shall not operate/own a mobile dental clinic.
- (2) All mobile dental clinics in Tennessee shall:
 - (a) Maintain all dental records as provided in Rule 0460-2-.12.
 - (b) Observe all patient rights as provided in Rule 0460-1-.16.
 - (c) Obtain written, informed consent when treating a minor.
 - (d) Comply with all applicable federal, state and local laws, regulations and ordinances regulating radiographic equipment, flammability, construction, and zoning.
 - (e) Obtain all applicable county and city licenses or permits to operate the facility.
 - (f) Comply with all applicable federal, state and local laws, regulations and ordinances regarding infection control and sanitation procedures, including:
 - 1. Providing access to a ramp or lift if services are provided to disabled persons.
 - 2. Having access to a properly functioning sterilization system.
 - 3. Having access to an adequate supply of potable water, including hot water.
 - 4. Having access to toilet facilities.
 - 5. Having a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials; and,

6. Compliance with Rule 0460-1-.11.

- (3) The mobile dental clinic must have:
 - (a) A dental treatment chair;
 - (b) A dental treatment light;
 - (c) A radiographic unit with appropriate processing equipment;
 - (d) A portable delivery system or an integrated system;
 - (e) An evacuation unit suitable for dental surgical use;
 - (f) Equipment to treat medical emergencies; and,
 - (g) Appropriate and sufficient dental instruments and infection control supplies.
- (4) The driver of the mobile dental clinic must possess a valid operator's license appropriate for the type vehicle being driven and not have any violations related to the operation of a motor vehicle in the last three (3) years, and not have any violations involving alcohol or illegal substances related to the operation of a motor vehicle in the last ten (10) years.
- (5) All dental hygienist and dental assistants assisting the dentist must be currently licensed and registered with the Tennessee Board of Dentistry.
- (6) Dental hygienists may perform delegable procedures for patients of record of their employer dentist who reside in nursing homes pursuant to Rule 0460-3-.09 (2).
- (7) When treating a nursing home patient, the dentist must comply with Rule 0460-1-.15 and shall cause the nursing home to have a registered nurse or physician be available upon emergency.
- (8) Violations of this rule subject the licensee/registrant to disciplinary action, pursuant to T.C.A. § 63-5-124.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-115, 63-5-121, and 63-5-124.

Rule 0460-1-.15, Repealed, is amended by deleting the catchline and substituting instead the following new catchline, and is further amended by adding the following language as a new introductory sentence and as new paragraphs (1) through (4):

0460-1-.15 Treatment of Nursing Home Patients. When treating a nursing home patient in any location, including but not limited to, in the dental office or nursing home, the dentist must:

- (1) Record in both the dental record and the nursing home patient record the procedures performed.
- (2) Record in the dental record the name of the facility where the patient resides.
- (3) Obtain written informed consent from the patient or if patient is unable to fully understand and give informed consent, consent must be obtained from the legal guardian of the patient. If a power of attorney is on file in the nursing home for the patient, the written informed consent must be obtained from the

person who holds the authority under the power of attorney. It is the responsibility of the dentist to ascertain whether or not a power of attorney is on file for the patient before evaluation of the patient by the dentist; and,

- (4) Obtain the written consent of the patient's physician.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-108.

Rule 0460-2-.01, Licensure Process - By Exam, By Criteria (Reciprocity), and Inactive Volunteer, is amended by deleting subparagraph (3) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3) (c) shall read:

- (3) (c) Shall demonstrate that he/she has not failed previously any exams required by Rule 0460-2-.05 without subsequently retaking and passing such exams, if passage of such exams has ever been attempted; and

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-110, and 63-5-111.

Rule 0460-3-.02, Criteria Approval Licensure Process (Reciprocity), is amended by deleting paragraph (13) in its entirety and substituting instead the following language, so that as amended, the new paragraph (13) shall read:

- (13) Unless an applicant subsequently retakes and passes a failed examination, an applicant must never have failed any Board-approved examination as provided in rule 0460-3-.05 to be eligible for licensure under the criteria approval process described in this rule.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2004. (05-14)

**THE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 4000
DIVISION OF GEOLOGY**

STATE OIL AND GAS BOARD

The Tennessee State Oil and Gas Board will hold a public hearing to receive comments concerning the promulgation of rules, amendment of rules, and repeal of rules pursuant to T.C.A. 60-1-202. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A., Section 4-5-204 and will take place in the 17th Floor Conference Room at the L & C Tower, 401 Church Street, Nashville, TN 37243 at 9:00 A.M. CDT on July 29, 2004.

Written comments will be considered if received by the close of business, July 29, 2004, at the office of the Supervisor, State Oil and Gas Board, 13th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243-0445.

Individuals with disabilities wishing to participate in the proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten days prior to (July 29, 2004) or the date the party intends to review such filings, to allow time to provide such aid or services. Contact the ADA Coordinator at 1-866-253-5827 for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For complete copies of the text of the notice, please contact Mike Hoyal, Department of Environment and Conservation, 13th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-1504.

**SUBSTANCE
OF
PROPOSED RULES**

NEW RULE

**CHAPTER 1040-2-10
FILING OF WELL DATA, REPORTS AND MAPS**

1040-2-10-.06 ANNUAL WELL REPORT

Operators shall file an annual report on each bonded well(s). The report shall include the well(s) name and number, permit number, location, current status of the well(s), any production for the past year, and future plans for the well(s). The annual report shall be due on the 15th of January each year. If the report is not received before February 1, the well(s) shall be determined abandoned.

Authority: T.C.A. §§60-1-202.

AMENDMENTS

Subparagraph (2)(b) of rule 1040-2-2-.02 Drilling Permits is amended by deleting one thousand dollars (\$1000) in the last sentence and adding five hundred dollars (\$500) so that, as amended, the subparagraph shall read:

- (b) If a well or wells revert back to a landowner, whether by court action, or by lease expiration or other provisions, and the well will remain in operation, then the landowner must submit an Application to Change Operators (Form P-AD-3), file an Organization Report (Form R-0-1), post a well plugging bond and reclamation bond, pay a fee of twenty-five dollars (\$25.00), and otherwise comply with well spacing regulations. If the well will be used for domestic gas only, then a plugging bond in the amount of five hundred dollars (\$500) will be required.

Paragraph (4) of rule 1040-2-2-.02 Drilling Permits is amended by deleting six (6) months and adding one (1) year in the first line and deleting the second line so that as amended the rule shall read:

All wells shall be either properly plugged or completed within a period of one (1) year following cessation of drilling.

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-2-.04 Plug And Abandon Permit is amended by deleting in its entirety and replacing with the following so that as amended the rule shall read:

1040-2-2-.04 NOTIFICATION TO PLUG AND ABANDON

Prior to plugging, notice shall be given the Supervisor in order that the Supervisor or his representative may witness the work. Work performed under the permit must be reported to the Supervisor on the Plug and Abandon Report (Form R-P&A-1) within thirty (30) days after completing the work. Form R-P&A-1 must be accompanied by a copy of the drilling contractor's or the service company's ticket for work done unless the work was observed by the Supervisor or his representative.

Authority: T.C.A. §§60-1-202..

Subparagraph (1)(a) of Rule 1040-2-3-.01 Preparing Plats is amended by deleting in its entirety and replacing with the following language so that, as amended, the subparagraph shall read:

Two legible copies of a well location plat shall be submitted for each proposed well and drawn on a sheet 8 1/2" x 14" or larger, using bond paper.

Authority: T.C.A. §§60-1-202, 60-1-204 and 60-1-209.

Subparagraphs (1)(c) through (1)(e) of rule 1040-2-4-.01 Well Spacing are amended so that, as amended, these subparagraphs shall read:

- (c) Wells drilled in search of oil to a depth of more than two thousand (2,000) feet shall be drilled on 40-acre spacing, and shall not be located closer than six hundred sixty (660) feet from any other well completed in, drilling to, or for which a permit shall have been granted to drill to the same pool; and not closer than three hundred thirty (330) feet from any property or unit line.
- (d) Wells drilled in search of gas from a depth of two thousand (2,000) feet to five thousand (5,000) feet shall be drilled on 40-acre spacing, and shall not be located closer than six hundred sixty (660) feet from any other well completed in, drilling to, or for which a permit shall have been granted to drill to the same pool; and not closer than three hundred thirty (330) feet from any property or unit line.
- (e) Wells drilled in search of gas to a depth of more than five thousand (5,000) feet shall be drilled on 160-acre spacing, and shall not be located closer than one thousand three hundred twenty (1,320) feet from any other well completed in, drilling to, or for which a permit shall have been granted to drill to the same pool; and not closer than six hundred sixty (660) feet from any property or unit line.

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-5-.01 Posting A Sign is amended by substituting in its place the following:

No well shall be placed in production, shut-in, or left unplugged until a sign has been posted on the well location. All wells must display a sign showing the operator name and telephone number, well name and number, and permit number. The mailing address and telephone number of the State Oil and Gas Board

must also appear on the sign. If the tank battery serving a particular well is not within sight of that particular well, then a sign must also be posted at a good conspicuous location at the tank battery for each well for which production is gauged individually. Where a number of wells on the same lease produce into a common tank battery, only one sign is required, and should show the name of the lease and well numbers, rather than individual permit numbers. The obligation to maintain legible signs remains until abandonment.

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-7-.02 Surface Casing is amended by replacing the third paragraph with the following:

A cement basket and centralizer are to be run on the surface casing between the first and second joints of surface casing or as directed by the supervisor.

Authority: T.C.A. §§60-1-202 and 60-1-204..

Rule 1040-2-7-.03 Production Casing is amended by replacing thirty (30) in the last sentence and to read as follows:

The production, oil, or flow string, is that casing used for the purpose of segregating the zone from which production is obtained and affording a means of communication between such zone and the surface. A description of the work done under the section must be reported to the Supervisor on Well History, Work Summary, and Completion or Recompletion Report (Form R-WH-1) within sixty (60) days after completion.

Authority: T.C.A. §§60-104.

Paragraph (1) of rule 1040-2-9-.01 Plugging Wells is amended by replacing the word “shall” with “may” in the first and last sentences so that the amended rule shall read:

- (1) All wells, which are to be abandoned, may be filled with a mud fluid of sufficient weight to offset the hydrostatic pressure of any formation penetrated. Sufficient cement plugs must be efficiently placed in number and properly located as to prevent the commingling of oil, gas, salt water, and fresh water from one zone to another, and to isolate potentially minable coal beds and seams and other potentially extractable minerals. All downhole plugs may be “felt for” to insure that they have been properly placed.

Subparagraph (c) of rule 1040-2-9-.01(2) is amended by replacing the last part of the sentence with a new sentence to read:

- (c) A mechanical plug, or a brush and stone plug, and a neat cement plug of not less than twenty-five (25) feet shall be placed at the surface of the well. The surface casing shall be cut off below plow depth at the request of the landowner or when determined appropriate by the supervisor or his representative.

Subparagraph (g) of rule 1040-2-9-.01(2) is amended by adding the words “or tubing” to the sentence and shall read:

If there is fluid in the well, a dump bailer or tubing may be used to place the cement in the well.

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-9-.02 Inspection is amended by replacing the word “will” with “may” in the second sentence and by replacing the last sentence in the paragraph so that the rule shall read:

The Supervisor or his representative must be given notice of intent to plug a well at least 12 hours prior to conducting such operation. The Supervisor or his representative may inspect the work of abandonment as it progresses, check the location and quality of plugs, check the amount of casing pulled, and check the demonstration of movement, if any, of oil, gas, or water. The operator must submit a Plug and Abandon Report (Form R-P & A-1) covering the work performed to the Supervisor within thirty (30) days after plugging and abandoning the well. When this work is observed by the Supervisor or his representative that observance must be verified by his signature on the Plug and Abandon Report (Form R-P & A-1).

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-9-.03 Deliverability Test is amended by substituting the number “twenty four (24)” in the third sentence, so that the rule shall read:

Before any well will be classified as a shut-in gas well, the operator must furnish the results of a deliverability test. Such deliverability test shall be performed after the well has achieved a stabilized flow rate. If stabilization cannot be achieved, the maximum test period required is twenty-four (24) hours. The results of the deliverability test shall be submitted on Gas Well Deliverability Tests (Form R-DT- 1), and in the initial Production section of the Well History, Work Summary, and Completion or Recompletion Report (Form R-WH-1), and must be complete as to stabilized flow rate, hours tested, choke size, and pressure in order to demonstrate that a stabilized flow rate was achieved. A copy of the chart on which the deliverability is based must also be submitted.

Authority: T.C.A. §§60-1-202 and 60-1-204.

Rule 1040-2-9-.04 Time Limit For Plugging Wells is amended by substituting “one (1) year” in the first sentence and deleting entirely the second sentence so that the rule shall read:

All wells drilled for oil and gas and found to be dry shall be plugged within one (1) year from cessation of drilling. No operator or owner shall permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled or converted. Nothing herein shall prevent utilizing a well for the purpose of introducing air, gas, fresh water or other liquid pressure into or upon the producing strata for the purpose of recovering oil and gas. All wells which are neither producing nor plugged shall be cased and capped in such a manner so as to protect all potential oil and/or gas zones, and fresh water.

Authority: T.C.A. §§60-1-202.

Rule 1040-3-1-.01 Time Limit For Well Completion is amended by substituting “one (1) year” in the first sentence and deleting entirely the second sentence so that the rule shall read:

All wells drilled in connection with the production of oil and gas, unless plugged in accordance with well abandonment procedures as stated in Chapter 1040-2-9, shall be completed within one (1) year from cessation of drilling.

Authority: T.C.A. §§60-1-202.

Rule 1040-3-1-.02 Application For Permit is amended by deleting the catchline and the first line and replacing both so that, as amended, the rule shall read:

1040-3-1-.02 NOTIFICATION FOR RE-ENTRY

Notification to the supervisor is required prior to conducting work for the purpose of completing, recompleting, workover, or deepening a well pursuant to producing oil and/or gas.

The operator must notify the Supervisor twenty-four (24) hours in advance of conducting these proposed operations.

This rule shall not deter an operator from taking immediate action in an emergency to prevent damage when a service company, other than the drilling contractor, performs any work germane to this section. The service company shall furnish the operator, and the operator upon request shall furnish the Supervisor with legible and exact copies of reports furnished the owner or operator of the well.

Authority: T.C.A. §§60-1-202.

Rule 1040-3-2-.02 Connections is amended by deleting the words “Christmas tree and well head” in the first line and adding “When requested by the supervisor or his representative, well head”... so that, as amended, the rule shall read:

When requested by the supervisor or his representative, wellhead connections shall be tested prior to installation at a pressure indicated by the Supervisor in conformance with conditions existing in areas in which they are used.

Whenever such tests are made in the field, they shall be witnessed by the Supervisor.

Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

Authority: T.C.A. §§60-104.

Rule 1040-3-2-.04 Subsurface Safety Valves is amended by deleting the word “subsurface” from the catchline and each subsequent occurrence and deleting the last line so that, as amended, the rule shall read:

1040-3-2-.04 SAFETY VALVES

- (1) A safety valve is required on all flowing wells, with a surface pressure in excess of one thousand (1,000) pounds in the following categories.
 - (a) Any location inaccessible during period of storm or floods.
 - (b) Location within any wildlife refuges, parks or game preserves, or bodies of water used for recreation or navigation.
 - (c) Location within six hundred (600) feet of public roads or waterways, railroads, inhabited dwellings, or closer than one thousand (1,000) feet to any school or church.

Where the use of safety valves would unduly interfere with normal operations of a well, the Supervisor may, upon submission of pertinent data in writing, waive the requirements of this Order.

Authority: T.C.A. §§60-104.

Paragraph (5) of Rule 1040-3-3-.01 Safety is amended by deleting the words “burned or” so that, as amended, the paragraph shall read:

- (5) All waste shall be disposed of in such a manner as to avoid creating a fire hazard or polluting streams and fresh water strata.

Authority: T.C.A. §§60-1-401.

Paragraph (1) of rule 1040-3-3-.02 Pollution And Safety Controls is amended by adding a second sentence so that, as amended, the paragraph shall read:

- (1) All personnel, including operators and service personnel shall be trained in the prevention of spills and made aware of the consequences of spillage. There shall be Site Coordinator designated for each well site who will be the principle contact for all activities on the location and the responsible party for submitting an action and safety plan for each well site.

Authority: T.C.A. §§60-104.

Rule 1040-4-2-.02 Gauging is amended by adding the words “/condensate or gas” in the second sentence so that, as amended, the rule shall read:

Each lease shall be provided with sufficient tankage and/or meters to permit proper gauging of the oil/ condensate and gas produced. The tanks or meters must be identified by a sign showing the ownership of the tanks or meters and the name of the lease from which the oil/condensate or gas is being produced. In no case shall meters be the sole means of measuring oil runs from any field. There must be used at least one gauge tank to check the readings of oil and condensate meters.

Authority: T.C.A. §§60-104.

Rule 1040-4-3-.05 Monthly Reporting-Producers is amended by deleting the word “MONTHLY” in the catchline and deleting the text of the rule in its entirety and replacing with the following language so that, as amended, the rule shall read:

1040-4-3-.05 REPORTING-PRODUCERS

Each producer of oil and such producer of condensate from a gas well, where produced in liquid form at the wellhead by ordinary production methods or as Calculated Theoretical Condensate, defined as the amount of condensate (allocated back to lease) that normally would be separated by conventional methods from natural gas well volumes flowing full stream directly to a plant without any condensate separation having been made at lease or a plant, shall furnish for each year an Annual Well Report pursuant to 1040-2-10-.06 setting forth complete information and data indicated by such reports respecting oil produced

from every lease operated by said producer and respecting condensate produced from gas wells at the wellhead in liquid form by ordinary production methods from each lease operated by said producer.

Authority: T.C.A. §§60-104.

Rule 1040-4-3-.06 Monthly Reporting-Transporters is amended by deleting the rule in its entirety and replacing with the following language so that, as amended, the rule shall read:

Each transporter of oil and condensate shall furnish for such calendar month a Transporter's and Storer's Monthly Report for Crude Oil and/or Condensate (Form R-MP-2) containing complete information and data indicated by such form including the quantity of oil removed from each lease and permit numbers of producing wells on each lease.

Authority: T.C.A. §§60-104.

Rule 1040-4-3-11 Monthly Reports-Gas is amended by deleting the rule in its entirety and replacing with the following language so that, as amended, the rule shall read:

All gas produced from oil wells and from gas wells within the State of Tennessee, excepting gas vented from stripper wells, shall be reported on the Annual Well Report and Monthly Gatherer's and/or Transporters Natural Gas Report (Form R-MP-5). Every producer shall complete the Annual Well Report pursuant to 1040-2-10-.06. Where, however, gas, from any well is taken by any person other than the producer, the producer may authorize such person to make the report in his name, which report shall include all gas produced from said well. Every transporter shall complete Form R-MP-5. The transporter thus required to report, shall execute under oath and file in the manner hereafter directed on or before the last day of each month, Form R-MP-5, setting forth fully the data and information indicated by such form, which shall be completed as to data covering the calendar month next preceding the date of filing. The first report due under this Order shall be for the calendar month of December, 1974, which shall be filed on or before the twenty-fifth (25th) day of the following month, January, 1975.

Authority: T.C.A. §§60-104.

Rule 1040-7-1-.01 Report And Permit Forms is amended by deleting subparagraphs (c), (e), (f), (j), and (q) and renumbering so that, as amended, the rule shall read:

- (1) The report and permit forms designated below may be obtained from the State Oil and Gas Board, 401 Church St., Nashville, TN 37243-1549, and are hereby adopted and made a part of the rules set out in Chapter 1040-1-1 through Chapter 1040-7-1:
 - (a) Application to Amend Well Permit (Form P-AD-2)
 - (b) Application to Change Operators (Form P-AD-3)
 - (c) Application for Permit to Drill (Form P-AD-1)
 - (d) Authority to Drill, Deepen, or Reopen a Well (Form P)
 - (e) Gas Well Deliverability Tests (Form R-DT-1)

- (f) Monthly Gatherer's and/or Transporter's Natural Gas Report (Form R-MP-5)
- (g) Organization Report (Form R-O-1)
- (h) Periodic GPM Test Report (Form R-GPM-1)
- (i) Plug and Abandon Report (Form R-P&A-1)
- (j) Pooling Affidavit (Form PA)
- (k) Pressure Maintenance and Secondary Recovery Questionnaire (Form Q-PMSR)
- (l) Statement of No Objection to Proposed Surface Disturbance (Form NO)
- (m) Surface Owners Notification Certification (Form NC)
- (n) Transporter's and Storer's Monthly Report for Crude Oil and/or Condensate (Form R-MP-2)
- (o) Well History, Work Summary, And Completion or Recompletion Report (Form R-WH-1)
- (p) Irrevocable Standby Letter of Credit Format (Form ILC)

Authority: T.C.A. §§60-1-202 and 60-1-204.

Subparagraph (2)(a) of rule 1040-8-1-.10 Methods Of Determinations is amended by deleting parts 7, 8, and 10 and renumbering so that, as amended, the rule shall read:

- (2) The method by which the Board will make determination is as follows:
 - (a) Applicants for determination shall file on forms required by the F.E.R.C. and by the Board in order to receive a hearing. Forms required by the Board are:
 - 1. Form No. P (Authority to Drill Deepen, or Reopen a well)
 - 2. Form No. P-AD-1 (Application for Permit to Drill)
 - 3. Form No. P-AD-2 (Application to Amend Well Permit)
 - 4. Form No. P-AD-3 (Application to Change Operators) if applicable
 - 5. Form No. R-O-1 (Organization Report)
 - 6. Form No. R-WH-1 (Well History, Work Summary, and Completion or Recompletion Report)
 - 7. Form No. R-DT-1 (Gas Well Deliverability Tests)
 - 8. Form No. R-MP-5 (Monthly Gatherer's and/or Transporter's Natural Gas Report)
 - 9. Form No. R-MP-6 (Monthly Gasoline and/or Cycling Plant Report)

10. Form No. TGP 102 (Application for New Natural Gas Determination), TGP 103 (Application for New Production Well Determination), TGP 107 (Application for High Cost Natural Gas Determination), or TGP 108 (Application for Stripper Well Natural Gas Determination), whichever is appropriate.

Subparagraph (2)(f) of rule 1040-8-1-.10 METHOD OF DETERMINATIONS is amended by deleting parts 3, 5, 9, 10, and 13 and renumbering so that, as amended, the rule shall read:

- (f) The Board maintains data files which contain the records on each individual well in the State. Such well records consist of the following:
 1. Application to Amend Well Permit (Form P-AD-2).
 2. Application to Change Operators (Form P-AD-3).
 3. Application for Permit to Drill (Form P-AD-1).
 4. Authority to Drill, Deepen, or Reopen a Well (Form P).
 5. Gas Well Deliverability Tests (Form R-DT-1).
 6. Monthly Gatherer's and/or Transporter's Natural Gas Report (Form R-MP-5).
 7. Organization Report (Form R-O-1).
 8. Periodic GPM Test Report (Form R-GPM-1).
 9. Plug and Abandon Report (Form R-P&A-1).
 10. Pressure Maintenance and Secondary Recovery Questionnaire (Form Q-PMSR).
 11. Production Test and Gas-Oil Ratio Report (Form R-PT-1).
 12. Transporter's and Storer's Monthly Report for Crude Oil and/or Condensate (Form R-MP-2).
 13. Well History, Work Summary, and Completion or Recompletion Report (Form R-WH--1).
 14. Application for New Natural Gas Determination (Form TGP-102).
 15. Application for New Production Well Determination (Form TGP-103)
 16. Application for High Cost Natural Gas Well Determination (Form TGP-107).
 17. Application for Stripper Well Natural Gas Determination {Form TGP-108}.

Further, the Board maintains a library of drill cuttings, cores and logs from wells in the state. Records of the Board include extensive geologic and engineering data, such as geologic structure, isopach, and cross-section maps, production data, well potential test results, bottom hole pressure surveys, fluid analyses, gas analyses, and other similar data.

The Board maintains field or reservoir base maps and all wells completed in or penetrating a reservoir are identified.

A monthly activity report is published by the Board for all wells being drilled or completed in the state and a monthly production report is available giving monthly production from all producing wells in the state.

Authority: T.C.A. §§60-1-105, 60-1-202 and 60-1-204;

REPEALS

1040-2-2-.03 Multiple Completion Permit is repealed.

1040-3-1-.08 Multiple Completions Is Repealed.

1040-3-1-.09 Tubingless Completions is repealed.

Authority: T.C.A. §§60-1-202.

1040-3-2-.01 Tubing And Completion is repealed.

1040-4-2-.10 Reporting Wells Off Production is repealed.

1040-4-2-.11 Computing Quantities is repealed.

1040-4-2-.12 Combined Correction Tables is repealed.

1040-4-3-.03 Authorization To Transport is repealed.

1040-4-3-.04 Transporter's Connecting To Leases is repealed.

Authority: T.C.A. §§60-104.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of May, 2004. (05-27)

**TENNESSEE DEPARTMENT OF HEALTH - 1200
BUREAU OF HEALTH SERVICES ADMINISTRATION
DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

There will be a public hearing before the Department of Health, Division of General Environmental Health, to receive comments concerning bedding materials rules promulgated pursuant to Tennessee Code Annotated § 68-15-205. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-201 et seq., and will take place in the Magnolia Room, Ground Floor, of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 9:00 A.M. on the 15th day of July 2004.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division of General Environmental Health 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, to allow time for the Division of General Environmental Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Darlene Burgess, Tennessee Department of Health, (615) 741-7206.

For a copy of this notice of rulemaking hearing, contact: Hugh Atkins, Division of General Environmental Health, 6th Floor Cordell Hull Building, Nashville, Tennessee 37247-3901, (615) 741-7206.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-23-7 BEDDING MATERIALS

NEW RULES

TABLE OF CONTENTS

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1200-23-7-.01 PURPOSE.

The purpose of these rules is to define, pursuant to T.C.A. § 68-15-205, the terms related to “bedding materials” as used on bedding tags.

Authority: T.C.A. §§4-5-201 et seq. and 68-15-201 et seq.

1200-23-7-.01 DEFINITIONS.

- (1) Cotton
 - (a) “Blended Cotton Felt” means cotton felt.
 - (b) “Cotton Batting” means cotton felt.
 - (c) “Cotton by-products” means the cotton fibers removed from the various machine operations in the preparation and manufacture of cotton yarn, up to, but not including, the process of spinning, and includes the following products designated in cotton mill terms such as cotton comber, cotton card strips, cotton vacuum strips, cotton fly and cotton picker. Cotton by-products may be designated by an applicable cotton mill term.
 - (d) “Cotton felt” means a filling material made of, or a mixture of, staple cotton, cotton linters or cotton by-products, and garnetted or carded and used in layer form. The term does not apply to felt scrapes, stuffed or blown-in the manner as un-felted fibers.
 - (e) “Cotton fiber” means cotton by-products.
 - (f) “Cotton liners” means the fibrous growth or lint removed from the cottonseed subsequent to the usual process of ginning.
 - (g) “Cotton waste” means the materials defined as cotton by-products in which oil and/or trash content exceeds a specific maximum percentage where and as specified by state law or regulation.
 - (h) “Loose cotton” means cotton fiber.
- (2) Down

- (a) “Adulteration” means the maximum content for certain components listed in paragraph (2) are not to be constructed to permit intentional adulteration of plumage products.
- (b) “Cleanliness” means all plumage products shall have an oxygen number not exceeding twenty (20) grams of oxygen per one-hundred-thousand (100,000) grams of sample.
- (c) “Down” means the undercoating of waterfowl, consisting of the light fluffy filaments “barbs” growing from one quill point but without any quill shaft.
- (d) “Down fiber” means the detached barbs from down and plumules and detached barbs from the basal end of the waterfowl quill shaft which are indistinguishable from the barbs of down.
- (e) “Down and feather blended products” means products that require qualified general labels (i.e., bedding tags – see 1200-23-7-.03(14) below) that shall include in parentheses the actual percentage of components.
 - 1. The term “Down and Feathers” shall be used to designate any plumage product containing between fifty and seventy-four percent (50% - 74%) down and plumules. The actual percentages shall be stated on the label.
 - 2. The term “Feathers and Down” shall be used to designate any plumage product containing between five and forty-nine percent (5% - 49%) down and plumules. The actual percentages shall be stated on the label.
 - 3. The remainder of components in down and feather blended products normally consists of waterfowl feathers or down and small amounts of other components.
 - 4. If these other components exceed the following maximums, the percentage of such components shall be disclosed on the label.

(i) Chopped, damaged or crushed feathers	2%
(ii) Down fiber	10%
(iii) Feather fiber	10%
(iv) Land fowl feathers	2%
(v) Quill feathers are not permitted	
(vi) Residue	2%
- (f) “Labeling of down products” means any product labeled as “down”, “duck down”, or “goose down” shall contain a minimum of seventy-five percent (75%) down and plumules. The “down” label is a qualified general label and shall include in parentheses the minimum percentage of down in the product. The remainder normally consists of waterfowl feathers and small amounts of other components.

If the remainder components exceed the following maximums, the percentage of such components shall be disclosed on the label.

1. Chopped, damaged or crushed feathers 10%
 2. Down fiber 10%
 3. Feather fiber 10%
 4. Land fowl feathers 10%
 5. Quilt feathers are not permitted
 6. Residue 10%
- (g) "Loose cotton" means cotton by-products.
- (h) "Percentage claims" means a plumage product should not be designed as "100% Down", "All Down", "Pure Down" or by other similar terms unless it contains one-hundred percent (100%) down.
- (i) "Plumule" means waterfowl plumage with underdeveloped soft and flaccid quill with barbs indistinguishable from those of down.
- (j) "Species" means the specie of waterfowl plumage need not be designated, but when designated, the product shall contain a minimum of ninety percent (90%) of such plumage.
- (k) "Staple cotton" means the staple fibrous growth removed from cottonseed in the usual process of ginning (first cut from the seed).
- (l) "Staple cotton felt" means cotton felt made entirely of staple cotton.
- (m) "Tolerances" means no tolerance is allowed for the minimum percentage of down as stated in the above listed categories.
- (n) "Waterfowl feather products" means any industrial product labeled as "waterfowl feathers", "duck feathers", "goose feathers", shall contain a minimum of eighty percent (80%) waterfowl feathers.

If the remaining twenty percent (20%) exceeds the following component maximums, the percentage of such components shall be disclosed on the label.

1. Down	20%
2. Down fiber	10%
3. Chopped, damaged & crushed feathers	7%
4. Feather fiber	5%
5. Land fowl feathers	5%
6. Residue	2%

Plumage products, which do not meet requirements for any of the above categories, shall be labeled accurately with each component listed separately.

(3) Feathers

- (a) “Chicken feathers” means feathers of any kind of chicken, which are whole in physical structure, with natural form of the feather.
- (b) “Chopped feathers” means feathers, which have been chopped or cut into pieces.
- (c) “Crushed feathers” means feathers, which have been processed by a curling or crushing machine, which has changed the original form of feathers, without removing quill.
- (d) “Damaged feathers” means feathers, other than crushed, chopped, or stripped, which have been materially broken, damaged by insects, or depreciated from their original value in any manner.
- (e) “Duck feathers” means feathers of any kind of duck, which are whole in physical structure, with natural form and curvature of the feather.
- (f) “Feathers” means distinctive light, horny epidermal outgrowths that form the external covering or plumage of birds.
- (g) “Feather fibers” means barbs of feathers stripped from quills and separated into individual or disconnected barbs.
- (h) “Feather mixtures” means feathers from two or more species of origin in a mixture shall be designated by name, character and percentage by weight of each constituent in order of predominance, or mixtures may be designated by lowest grade as to specie of origin. (Grades in descending order: goose, duck, and turkey, chicken).
- (i) “Goose feathers” means feathers of any kind of goose, which are whole in physical structure, with natural form and curvature of the feather.
- (j) “Labeling of feathers” means all definitions shall include applicable adjunctive words as to specie of origin. E.g., crushed chicken feathers or goose feather fibers.
- (k) “Marabou fibers” means fibers from the soft, fluffy feathers of turkeys.
- (l) “Nestling feathers” means an immature feather with a long sheath, bushy appearance, bi-dimensional and relatively stiff fibers emanating from sheath.
- (m) “Quills” means main shaft of axis of feathers.
- (n) “Quills feathers” means wing and tail feathers of any fowl.
- (o) “Residue feathers” means quill pith, quill fragments, trash or foreign matter in the feather and down filling materials in excess of allowable limits as specified by the various state laws or regulations.
- (p) “Stripped feathers” means barbs of feathers stripped from quill shaft but not necessarily separated into feather fiber.

- (q) "Turkey feathers" means feathers of any kind of turkey, which are whole in physical structure, with natural form of the feather.
 - (r) "Waterfowl feathers" means goose or duck feathers, or any mixture thereof, which are whole in physical structure with the natural form and curvature of the feathers.
- (4) Foam
- (a) "Foam" means polymerized material consisting of a mass of thin-walled cells produced chemically or physically and shall be designated as "foam", together with the name of the organic base from which it was made, e.g., urethane foam, vinyl foam.
 - (b) "High resilience" means urethane foam.
 - (c) "Labeling of foam" means designating the form of urethane or vinyl foam, including pieces, shredded, cemented, and the term "used" or "secondhand" is required to be used in conjunction with definitions for "foam". The term "Urethane Foam Imbedded with Styrene Beads" must be used when applicable.
 - (d) "Molded styrofoam" means a molded styrofoam unit.
 - (e) "Neoprene foam" means designates foam produced from neoprene.
 - (f) "Olefin foam" means foam produced from olefin.
 - (g) "Polyurethane foam" means a permissible synonymous term for urethane foam.
 - (h) "Polyurethane foam beads" means a term for a filling material that has been processed into small round droplets usually from zero to one-half inch (0-1/2") in diameter.
 - (i) "Urethane foam" means a cellular urethane product that is created by the inter-action of an ester or an ether and carbamic acid derivative.
 - (j) "Urethane foam" means urethane foam with a minimum density of 2.5 pounds (2½ lbs.) per cubic foot, a minimum resilience of sixty percent (60%), and a minimum support ratio of 2.4.
 - (k) "Urethane foam skins" means the rough outer skin that forms on urethane foam buns during the curing process.
 - (l) "Vinyl Foam" means designates foam produced from vinyl.
- (5) Hair
- (a) "Curled Hair" means hair which has been curled by machine process. The origin of the hair shall be stated on the label and preceded by the word "uncurled".
 - (b) "Hair" means the coarse filamentous epidermal outgrowth of such mammals as horses, cattle, hogs and goats when used in the manufacture of bedding. It shall be clean, properly cured, free from epidermis, excreta and other foreign or objectionable substances and odors.
 - (c) "Hair classification" means hair further classified according to the body origin as horsetail hair, horse main hair, cattle hide hair, hog hair or goat hair.

- (d) “Hair mixtures” means the hair of different animal origin used in blend or mixture. The kind and percentage, by weight of each shall be stated on the label. Where materials other than hair are used with hair in a mixture, the kind and percentage by weight of each material shall be stated on the label.
 - (e) “Labeling of hair” means, as applicable, bleached, pad, rubberized or resin treated and/or coated; used or secondhand, are required to be used in conjunction with the definitions for hair on labels.
 - (f) “Uncurled hair” means hair not curled by machine process. Origin of the hair shall be stated on the label, preceded by the word “uncurled”.
- (6) Man Made Or Manufactured Fibers
- (a) “Acetate fiber” means the manufactured fiber in which fiber-forming substance is cellulose acetate. Where not less than ninety-two percent (92%) of hydroxyl groups are acetylated, the term triacetate may be used as generic description of the fiber.
 - (b) “Acrylic fiber” means it is manufactured fiber in which fiber-forming substance is any long chain synthetic polymer composed of at least eighty-five percent (85%) by weight of acrylonitrile units.
 - (c) “Azlon fiber” means it is a manufactured fiber in which fiber-forming substance is composed of any regenerated naturally occurring proteins.
 - (d) “Glass fiber” means it is a manufactured fiber in which fiber-forming substance is glass.
 - (e) “Labeling of man-made fibers” shall be used in conjunction with definitions of man-made fibers. Trade names are prohibited.
 - (f) “Metallic fiber” means it is a manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or core completely covered by metal.
 - (g) “Modacrylic fiber” means it is a manufactured fiber in which fiber-forming substance is any long chain synthetic polymer composed of less than eighty-five percent (85%), but at least thirty-five percent (35%) by weight, of acrylonitrile units.
 - (h) “Nylon fiber” means it is a manufactured fiber in which fiber-forming substance is any long chain synthetic polyamide having recurring amide groups.
 - (i) “Nytril fiber” means a manufactured fiber containing at least eighty-five percent (85%) of long chain polymer of vinylidene dinitrile when the vinylidene dinitrile content is no less than every other unit in the polymer chain.
 - (j) “Olefin fiber” means a manufactured fiber in which fiber-forming substance is any long chain synthetic polymer composed of at least eighty-five percent (85%) by weight of ethylene, propylene, or other olefin units.
 - (k) “Polyester fiber” means a manufactured fiber in which fiber-forming substance is any long chain synthetic polymer composed of at least eighty-five percent (85%) by weight of any ester of a dihydric alcohol and terephthalic acid.

- (l) "Polyester pneumacel" means a generic term for a polyester pneumatic cellular product.
 - (m) "Rayon fiber" means a manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed or regenerated cellulose in which substituents have replaced not more than fifteen percent (15%) of the hydrogens of the hydroxyl groups.
 - (n) "Saran fibers" means a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least eighty percent (80%) by weight of vinylidene chloride units.
 - (o) "Spandex fiber" means a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer comprised of at least eighty-five percent (85%) of a segmented polyurethane.
 - (p) "Vinyl fiber" means a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of least fifty percent (50%) by weight of vinyl alcohol units, and in which the total of the vinyl alcohol units and any one or more of the various acetal units is at least eighty-five percent (85%) by weight of the fiber.
 - (q) "Vinyon fiber" means a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least eighty-five percent (85%) by weight of vinyl chloride units.
- (7) Rubber
- (a) "Labeling of rubber" means designating the form of latex foam or sponge rubber, including molded, pieces, shredded, cemented, and the term used or second-hand are required to be used in conjunction with definitions for "rubber". E.g., Shredded latex foam rubber.
 - (b) "Latex foam rubber" means a foam product made from rubber latex that previously has not been coagulated or solidified.
 - (c) "Rubber" means natural rubber and the following synthetic rubber-like materials: chloroprene, styrenebutadiene copolymers, butadiene-acrylonitrile copolymers, polymerized isobutylene, with or without comonomers present, and thioplasts (any of the polysulfide rubbers consisting of organic radicals linked through sulfur).
 - (d) "Sponge Rubber" means a sponge product made from rubber that has previously been coagulated or solidified.
- (8) Various Fiber By-Products And Other Filling Materials
- (a) "Dry polymer" means a synthetic rubber-like material either in a viscoelastic or gel form. The words "pad" or "gel" may be used as an adjunctive term.
 - (b) "Textile fiber by-products" means vegetables and synthetic fibers recovered from various machine operations up to but not including the process of spinning.
 - (c) "Textile clippings" means material that has been made into thread, yarn, or fabric, but not reduced to a fibrous state. If the clippings are made of one (1) type of fiber only, then the generic term of the fiber may precede the word "Textile Clippings." If clippings contain more than one (1) type of fiber, the type and percent of each fiber shall be stated on the label.

- (d) "Textile fiber of unknown kind" means textile fiber waste.
 - (e) "Textile fiber waste" means the combination of fiber of an undetermined generic kind.
- (9) Vegetable Fibers
- (a) "Buckwheat hulls" means outer shell covering of the buckwheat seed (*fagopyrum*).
 - (b) "Cattail plant fibers" means fibers obtained from the seedpod of tall reedy marsh plants having long flat leaves, *typha latifolia* (family *typha-ceae*).
 - (c) "Cellulose fiber" means wood or other vegetable growth reduced to fibrous state.
 - (d) "Coconut husk fiber" means coir.
 - (e) "Coir" means fibers obtained from husk or outer shell of coconut.
 - (f) "Estarto fiber" means fiber from either of two Spanish and Algerian grasses (*Stipa tenacissima* and *Lygeum spartum*).
 - (g) "Excelsior" means shredded thread-like wood fibers, not including waste products such as shavings, sawdust or similar wastes.
 - (h) "Flax fiber" means fiber derived from the plant of the genus *Linum usitatissimum* raised primarily for fiber.
 - (i) "Flax tow" means coarse, broken and refuse parts of flax separated from fine fibrous parts in preparing flax for spinning.
 - (j) "Hay" means any grass, properly dried or cured, free from dust, burrs, sticks or other objectionable matter.
 - (k) "Jute fiber" means fiber obtained from various species (*corchorus*) of plants of the Linden family growing principally in India and east Indian Islands.
 - (l) "Jute pad" means a pad made of jute fibers.
 - (m) "Kapok" means fibers investing seed of kapok of tree (*ceiba pentrandia*).
 - (n) "Milkweed fiber" means a fibrous growth attached to seed within pods of milkweed (*aselepias*).
 - (o) "Moss" means processed filaments of epiphytic plants forming pendant tufts upon branches and trunks of live oaks and other trees.
 - (p) "Palm fiber" means a fiber material obtained from the leaf of the palm, palmetto or palmyra tree.
 - (q) "Sea grass" means dried fibrous material obtained from maritime plants or seaweeds; usually dried stems of eelgrass (*zistera marina*).
 - (r) "Silk" means fine strong lustrous fiber produced by certain caterpillars (silk worms).

- (s) “Sisal or sisal fiber” means fiber obtained from leaves of agave plants (*agave sisalana*) and similar species of agave.
 - (t) “Sisal fiber tow” means residual fibers left after extraction of spinnable sisal fiber from leaf.
 - (u) “Sisal fiber waste” means sisal fiber waste of cordage mills, including rope and cordage ends, but shall not contain knots and refuse.
 - (v) “Straw” means the stalk or stem of grain, such as wheat, rye, oats, rice, and the like, that, after thrashing, shall be free from chaff, beards, bristles, husks, glumes, dirt or other extraneous matter.
 - (w) “Tampico or tampico fibers” means the fiber obtained from leaves of various Mexican agave plants from Tampico, Mexico.
 - (x) “Tula or tula fiber” means a fiber obtained from leaves of the tula istle (*lophanta poseigeri*) and similar species of agave plants.
- (10) Wool
- (a) “Blended wool felt” means felt made of blended wool, a mixture of wool, wool by-products, wool wastes and tanners wool. Blended wool felt may be designated as blended wool batting, blended wool batts or by the particular terms applicable to each of the constituents in order of predominance by percentage of weight.
 - (b) “Blended wool mixture” means wool blends.
 - (c) “Wool or virgin wool” means the fleece of sheep or lamb, which has been scoured or scoured and carbonized. It shall not be the by-product of any process of manufacture or sustained prior use, and shall be free from kemp and vegetable matter.
 - (d) “Wool by-products” means the wool fibers removed from various machine operations necessary in the manufacture of wool yarn, up to but not including the process of spinning, and includes the following products designated in wool mill terms: wool drawn laps, wool card waste, wool card strips and wool doffer wastes.
 - (e) “Tanners wool” means wool reclaimed from tanned sheepskin.
 - (f) “Wool batt or wool batting” means wool felt.
 - (g) “Wool blends” means mixtures of wool, wool by-products, wool wastes and tanners wool shall be designated by term applicable to each constituent present, expressed in order of their predominance by percentage of weight, or the mixture may be designated “blended wool” when permissible or authorized by law or regulation of a state.
 - (h) “Wool felt” means felt made of wool that has not been the by-product of any process of manufacture. Terms may be applied synonymously.
 - (i) “Wool waste” means other by-products and wastes of machines from any process of manufacture employing only new wool fibers not included in definition for “wool by-products”, and shall include wool pills, shank and tag wools.

Authority: T.C.A. §§4-5-201 et seq. and 68-15-201 et seq.

1200-23-7-.03 ADJUNCTIVE TERMS.

- (1) “All–Pure, 100%” means to consist entirely of material thus described and permitting no tolerance whatsoever.
- (2) “Batting or felt” means textile fibers that have been carded in layers or sheets by garnett or felting machine and free from scrapes or clippings.
- (3) “Blended” means textile filling material composed of two (2) or more fibers. E.g., cotton linters, and cotton by-products (not a mix of different genera).
- (4) “Boric acid treatment” means filling material that has been treated with boric acid solution as a flame retardant. E.g., blended cotton felt boric acid treatment.
- (5) “Card, Stripes, Stripping” means fibers produced by, or removed from, carding cloth following the carding process. (The name of the textile fiber from which it was produced must precede the definition.)
- (6) “Cemented” means filling material that has been shredded, cut or broken into pieces of indefinite shape, size or form and cemented together.
- (7) “Colored” means dyed.
- (8) “Comber or coils” means fibers produced by, or removed from, the combing process of textile fibers. (The name of textile fiber from which it was produced must precede the definition.)
- (9) “Comber or Noils” means fibers produced by, or removed from, the combing process of the textile fibers. (The name of the textile fiber from which it was produced must precede the definition.)
- (10) “Damaged” means filling material which in whole or part has deteriorated through excessive exposure to the elements, faulty storage, fire, water or otherwise, or that has a disagreeable odor or has begun to disintegrate.
- (11) “Dyed” means filling material that has been treated and impregnated with coloring matter.
- (12) “Fly” means fibers that come off of the machines during carding, drawing or similar textile operations. (The name of textile fiber from which produced must precede the definition.)
- (13) “Garnetted” means a material that has been made into thread, yarn or fabric and subsequently reduced to a fibrous state and processed through a garnett machine.
- (14) “Label” means the bedding tag as specified in Tennessee Code Annotated § 68-15-202, 68-15-203, 68-15-204 and/or 68-15-205.
- (15) “Miscellaneous waste fibers” means a blend or mixture of undetermined percentages of two (2) or more different kinds of fibers. (The name(s) of the fiber(s) are not required in the definition.)
- (16) “Molded” means the filling material that has been made in a mold in the shape in which it is intended to be used.

- (17) "Motes" means picker or picker motes.
- (18) "Napper" means short fibers or lint removed during the process of raising the face of cloth. (The name of textile fiber from which produced must precede the definition.)
- (19) "Picker or picker motes" means tangled fiber waste resulting from opening and cleaning fibers in the opener room of the textile mill. (The name of the textile fiber from which produced must precede the definition.)
- (20) "Oily" means filling material containing oil in excess of the allowable percentage.
- (21) "Pad" means filling material that is interwoven, punched, pressed, formed, shaped or otherwise fabricated into a pad.
- (22) "Pieces" means filling material that has been cut or broken into pieces of indefinite shape, size or form, but not shredded.
- (23) "Rubberized" means filling material that has received a latex application.
- (24) "Resinated or Resin Treated" means filling material that has received a resin application.
- (25) "Shredded" means filling material that has been subjected to the shredding process.
- (26) "Trash" means shell, shale, stick, stem, leaf, seed, hull, boll and foreign matter common to vegetable fibers.
- (27) "Secondhand" means any article of bedding or filling material that has been previously used. E.g., cotton waste, wool waste, or textile fiber waste. (The name of the material from which it was produced must precede the definition.)
- (28) "Used" means secondhand.
- (29) "Waste" means by-products or reclaimed material that has not been used previously. E.g., cotton waste, wool waste, or textile fiber waste. (The name of the material from which it was produced must precede the definition.)

Authority: T.C.A. §§4-5-201 et seq. and 68-15-201 et seq.

1200-23-7-.04 RESTRICTED AND PROHIBITED TERMS.

- (1) "Bonded" shall not be used on any label describing filling materials.
- (2) "Border" means filling material in pre-built border and need not be stated on label, providing it does not exceed ten percent (10%) of total filling.
- (3) "Burlap" means Burlap, muslin, tape and similar accessory material and need not be stated on label.
- (4) "Cotton" shall not be used as a term by itself.
- (5) "Curled feathers" is a prohibited term.

- (6) "Fiber fill" is a prohibited term.
- (7) "Hen feathers" is a prohibited term.
- (8) "Net weight" if shown on label, must be placed below line under certification statement.
- (9) "Paper sheets" means sheets used for separating or covering felt or wadding, when present amount not exceeding ten percent (10%) by weight of entire filling material and need not be stated on label.
- (10) "Recycled" is a prohibited term.
- (11) "Rubber products" is a prohibited term.
- (12) "Steel wool" is a prohibited term.
- (13) "Tan-O-Quill" shall not be used to describe feathers or down.
- (14) "Virgin" is permitted only in connection with wool products.
- (15) "Wood wool" is a prohibited term.
- (16) "Finish size" if shown, the label must be placed below the line under certification statement.
- (17) "De-fabricated fibers" is a prohibited term.

Authority: T.C.A. §§ 4-5-201 et seq. and 68-15-201 et seq.

1200-23-7-.05 VARIOUS FIBER BY-PRODUCTS & OTHER FILLING MATERIALS.

- (1) "Dry polymer" means a synthetic rubber-like material either in a viscoelastic or gel form. The words "pad" or "gel" may be used as an adjunctive term.
- (2) "Textile clippings" means material that has been made into thread, yarn, or fabric, but not reduced to a fibrous state. If the clippings are made of one (1) type of fiber only, then the generic term of the fiber may precede the term "textile clippings". If clippings contain more than one (1) type of fiber, the type and percent of each fiber shall be stated on the label.
- (3) "Textile fiber by-products" means vegetables and synthetic fibers recovered from various machine operations up to but not including the process of spinning.
- (4) "Textile fiber waste" means the combination of fiber of undetermined generic kind.
- (5) "Textile fiber of unknown kind" means textile fiber waste.

Authority: T.C.A. §§4-5-201 et seq. and 68-15-201 et seq.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of May, 2004.
(05-25)

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

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendment of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-11-202 and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room on the Ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 9:00 a.m. (CDST) on the 19th 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 Care Facilities to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Care Facilities, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247 0508, (615) 741 7598.

For a copy of the entire text of this notice of rulemaking hearing visit the Department of Health's web page on the Internet at www.state.tn.us/health and click on "rulemaking hearings" or contact: Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-0508, (615) 741-7598.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-8-1
STANDARDS FOR HOSPITALS**

AMENDMENTS

Rule 1200-8-1-.07, Optional Hospital Services, is amended by adding the following language as new subparagraph (4)(e):

- (4) (e) Outpatient laboratory or diagnostic testing may be ordered by any practitioner licensed under Title 63 or practitioners licensed in another state as authorized by their respective board.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 6th day of May, 2004. (05-02)

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

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 2nd Floor, BoardRoom, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30p.m. CDT on, Tuesday, July 20, 2004.

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

For a copy the proposed rule contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Citizens Plaza Building, 400 Deaderick Street, 15th Floor, Nashville, TN 37248-0006, telephone number (615) 313-4731.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1240-1-50
STANDARD OF NEED/INCOME**

AMENDMENTS

Rule 1240-1-50-.20 Standard Of Need/Income, is amended by deleting the Rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read:

1240-1-50-.20 STANDARD OF NEED/INCOME. The following table shows the maximum income level, consolidated standard of need, and the possible standard payment amounts and differential grant payment amounts (maximum payment per assistance group size) to be used in the Families First program to determine eligibility and amount of payment.

- (1) Families First Cash Assistance Standards
 - (a) Consolidated Need Standard (CNS). The Department has developed a consolidated standard of need based on size of the assistance group (AG), which indicates the amount of income the assistance group would need to meet subsistence living costs according to allowances set by the state for items including food, clothing, shelter and utilities, transportation, medical care, personal incidentals, and school supplies. The CNS is used as the basis for determining the gross income standard (GIS), the standard payment amount (SPA), and the Differential Grant Payment Amount (DGPA).
 - (b) Gross Income Standard (GIS). This standard is set at One Hundred Eighty-Five Percent (185%) of the consolidated need standard. If the gross countable income of an assistance group exceeds this standard, the Assistance Group (AG) is not eligible for Families First.

- (c) Standard Payment Amount (SPA). Tennessee does not meet One Hundred Percent (100%) of need as defined by the consolidated need standard. Rather, a maximum payment by family size, dependent on available State and Federal funds is paid, except in the instances specified in 1240-1-50-.20(e).
- (d) Differential Grant Payment Amount (DGPA). A Families First Assistance Group which meets any one of the criteria for exemption from Time Limited Assistance as specified in 1240-1-51-.01(4)(a) through (d), will be eligible for a grant based on the Differential Grant Payment Amount (DGPA), which is a maximum payment by family size, dependent on funds available, except in the instances specified in subparagraph (e) below.
- (e) Family Benefit Cap
 - 1. No additional benefits will be issued due to the birth of a child when the birth occurs more than ten (10) calendar months after the later of:
 - (i) the date of application for Families First, or
 - (ii) the date of implementation of the Families First program (September 1, 1996), as provided by T.C.A. § 71-3-151, unless:
 - (I) the child was conceived as the result of verified rape or incest;
 - (II) the child is the firstborn (including all children in the case of a multiple birth) of a minor included in the Families First grant who becomes a first-time minor parent;
 - (III) the child does not reside with his/her parent;
 - (IV) the child was conceived in a month the AG was not receiving Families First; or
 - (V) the child was already born prior to the later of the date of application for Families First or the date of implementation of Families First, and the child has entered or returned to the home.
 - 2. The additional child will be included in the need standard for the purpose of determining Families First eligibility. The income of the child, including child support, will be applied against the need standard in determining the Families First payment amount for the family. The child will be considered a Families First recipient for all other purposes, including Medicaid/TennCare coverage.
 - 3. The family benefit cap will not apply to a subsequent period of eligibility for families who reapply for Families First subsequent to receipt of cash assistance for an eighteen (18)-month eligibility period during which the child was born, as long as the reason for prior case closure was other than a failure to comply with work or child support enforcement requirements or other Personal Responsibility Plan provisions, and the parent/caretaker had cooperated with the Department as defined in departmental policies for the Families First program.
 - (i) Departmental policies and rules with which the parent/caretaker must cooperate include, but are not limited to:

- (I) Child support cooperation requirements, such as identifying the absent parent, meeting with child support enforcement staff, submitting a child for blood testing, and testifying in court if necessary;
 - (II) Carrying out and fulfilling Personal Responsibility Plan provisions and requirements; or
 - (III) Carrying out and fulfilling Work Plan provisions and requirements.
- (f) An assistance payment is determined as follows:
- 1. If the assistance group’s net income (after allowable exclusions and deductions) equals or exceeds their consolidated need, the assistance group is not eligible.
 - 2. If the assistance group’s net income is less than their consolidated need, the monthly grant amount is the smaller of a maximum payment amount by family size (SPA or DGPA, as appropriate) or the deficit if it is ten dollars (\$10) or more. If the deficit is one dollar (\$1) - nine dollars (\$9), the AG is eligible for Medicaid (TennCare) only, and is deemed to be a Families First recipient group.
- In the case of an AG receiving Families First because one or both parents are unemployed, if the Principal Wage Earner (PWE) receives Unemployment Compensation (UC) the UC benefit is deducted from the grant amount determined after deducting all other countable income from the CNS, to determine the actual amount of Families First payment for the AG.
- 3. The minimum monthly grant which can be paid is ten dollars (\$10).
- (g) Families First Need/Payment Standards
- 1. Tables

TABLE I

Number of Persons in Assistance Group	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	951	1358	1628	1713	2078	2105	2300	2329	2560	2586
Consolidated Need Standard	514	734	880	926	1123	1138	1243	1259	1384	1398
Maximum Payment (SPA)	95	142	185	226	264	305	345	386	425	467

Minimum Families First Payment is \$10 per Month for any Assistance Group

Number of Persons in Assistance Group	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	2675	2753	2821	2882	2934	2984	3028	3064	3101	3130
Consolidated Need Standard	1446	1488	1525	1558	1586	1613	1637	1656	1676	1692
Maximum Payment (SPA)	508	549	589	630	670	711	750	790	831	871

Minimum Families First Payment is \$10 per Month for any Assistance Group

TABLE II

Number of Persons in Assistance Group	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	951	1358	1628	1713	2078	2105	2300	2329	2560	2586
Consolidated Need Standard	514	734	880	926	1123	1138	1243	1259	1384	1398
Maximum Payment (DGPA)	140	192	232	242	291	305	345	386	425	467

Minimum Families First Payment is \$10 per Month for any Assistance Group

Number of Persons in Assistance Group	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	2675	2753	2821	2882	2934	2984	3028	3064	3101	3130
Consolidated Need Standard	1446	1488	1525	1558	1586	1613	1637	1656	1676	1692
Maximum Payment (DGPA)	508	549	589	630	670	711	750	790	831	871

Minimum Families First Payment is \$10 per Month for any Assistance Group

2. The Families First standard payment amount (maximum payment) for an assistance group of three (3) persons represents 21.0% of the consolidated need for an assistance group of that size. The Families First maximum differential grant payment amount for an assistance group of three (3) persons represents 26.4% of the consolidated need for an assistance group of that size. The payments for groups composed of different numbers of recipients represent an upward or downward adjustment of the percentage in the preceding sentences which is necessary to maintain the payment at a level not more or less than that paid in fiscal year 2003-2004.
3. Standard for Families First Transitional Services
 - (i) Families First assistance groups and other low income families may receive transitional services after the Families First case closes.
 - (ii) For purposes of this Part, “transitional services” is defined as services to assist the customer in attaining long-term self-sufficiency.
 - (iii) Transitional services will be provided subject to the continued availability of state and/or federal funding.
 - (iv) In order to receive these services, the assistance group’s gross monthly income must meet a standard of need.
 - (v) The standard of need for transitional services under this Part is defined as Two Hundred Percent (200%) of the Federal poverty level for the assistance group family size. The standard of need for this Part does not apply to Transitional Child Care or Transitional Medicaid.

Authority: TCA §§ 4-5-201 et seq.; 71-1-105; 71-3-151—71-3-165, 71-3-154(i); 71-3-155(e)- (g); Senate Bill 3415/House Bill 3551 (2004); 42 USCA §§ 601 et seq.; 45 CFR 233.20; and 42 USCA § 1315.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of May, 2004.
(05-22)

TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-18-211. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 12th day of August, 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, 1st Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247 1010, (615) 532 4397.

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

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by adding the following language as new subparagraph (5) (d):

- (5) (d) Failure to Allow or Appear for Inspection – An establishment whose owner or operator fails to allow an inspection to be scheduled shall be deemed to have failed the inspection. An establishment whose owner or operator does not appear for his/her scheduled inspection shall be deemed to have failed the inspection unless the Board’s administrative office or the Board’s authorized representative is notified at least twenty-four (24) hours prior to the scheduled appointment time for inspection. In either circumstance, a subsequent scheduled inspection shall be considered as a reinspection. When an inspection is necessitated as a result of either circumstance, the following shall occur:
1. The Board’s administrative office shall provide the establishment with an application for reinspection.
 2. The establishment’s owner or operator shall submit the reinspection application to the Board’s administrative office within ten (10) days after the establishment received the application.
 3. The reinspection fee and the state regulatory fee shall be submitted with the application, pursuant to Rule 0870-1-.06.
 4. The Board’s Unit Director shall cause to have the reinspection scheduled.

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

Rule 0870-1-.05, Establishment Licensure Process, is amended by deleting paragraphs (4) and (7) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (8) but not its subparagraphs and substituting instead the following language, and is further amended by deleting paragraph (9) in its entirety and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (4) and (7) and the new paragraph (8) but not its subparagraphs shall read:

- (4) Except for applicants who are corporations doing business in Tennessee, every applicant shall submit a certified copy or a notarized photocopy of his/her birth certificate or its equivalent which indicates that the applicant is at least eighteen (18) years of age at the time of application.
- (7) Applicants who are corporations doing business in Tennessee shall submit a certified copy or a notarized photocopy of their corporate charter and shall submit a statement identifying the corporation's registered agent for service of process.
- (8) An applicant shall disclose the circumstances surrounding any of the following concerning himself and all individuals identified by the information provided pursuant to paragraph (5) of this rule:

Authority: T.C.A. §§ 4-5-202, 63-18-205, and 63-18-211.

Rule 0870-1-.06, Fees, is amended by deleting subparagraphs (1) (i) and (2) (i) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (i) and (2) (i) shall read:

- (1) (i) Reinspection Fee - A non-refundable fee to be paid when an establishment does not pass inspection, or fails to allow an inspection to be scheduled, or does not appear for a scheduled inspection.
- (2) (i) Reinspection Fee \$ 75.00

Authority: T.C.A. §§ 4-5-202, 63-18-206, and 63-18-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of May, 2004. (05-07)

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, 63-6-101, and 63-6-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 16th 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 0880-2-.08 Examination, is amended by deleting subparagraphs (4) (b) and (4) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (b) and (4) (c) shall read as follows:

- (4) (b) USMLE - Seven (7) years from the date of whichever step of the examination was successfully completed first.
- (4) (c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the seven (7) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a seven (7) year time period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, Public Chapter 562 of the Public Acts of 2004, and 63-6-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2004.)05-11)

BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of a new rule and amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 2nd day of August, 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 1000-1-.07, Schools: Faculty, is amended by deleting subpart (3) (b) 1. (ii) in its entirety and substituting instead the following language, so that as amended, the new subpart (3) (b) 1. (ii) shall read:

- (3) (b) 1. (ii) Experience: Three years experience in full-time teaching and/or administrative positions in an approved school of professional nursing.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-117, and 63-7-207.

Rule 1000-1-.13, Unprofessional Conduct and Negligence, Habits or Other Cause, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (1) (t) and (1) (u), and renumbering the current subparagraphs (1) (t) and (1) (u) as (1) (v) and (1) (w), so that as amended, the new subparagraphs (1) (b), (1) (t), and (1) (u) shall read:

- (1) (b) Failure to maintain a record for each patient which accurately reflects the nursing problems and interventions for the patient and/or failure to maintain a record for each patient which accurately reflects the name and title of the nurse providing care;
- (1) (t) Over-prescribing, or prescribing in a manner inconsistent with Rules 1000-4-.08 and 1000-4-.09;
- (1) (u) Practicing professional nursing in a manner inconsistent with T.C.A. § 63-7-103.

Authority: T.C.A. §§4-5-202, 4-5-204, 53-11-301, 63-7-103, 63-7-115, 63-7-123, 63-7-126, and 63-7-207.

Rule 1000-2-.13, Unprofessional Conduct and Negligence, Habits or Other Cause, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (t) and renumbering the current subparagraphs (1) (t) and (1) (u) as (1) (u) and (1) (v), so that as amended, the new subparagraphs (1) (b) and (1) (t) shall read:

- (1) (b) Failure to maintain a record for each patient which accurately reflects the nursing problems and interventions for the patient and/or failure to maintain a record for each patient which accurately reflects the name and title of the nurse providing care;
- (1) (t) Practicing practical nursing in a manner inconsistent with T.C.A. § 63-7-108.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-108, 63-7-115, and 63-7-207.

NEW RULE

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1000-4-.09 Prerequisites to Prescribing or Dispensing Medications

1000-4-.09 PREREQUISITES TO PRESCRIBING OR DISPENSING MEDICATIONS.

- (1) Except as provided in paragraph (2), it shall be a prima facie violation of T.C.A. § 63-7-115 (a) (1) (C) and (F) for an Advanced Practice Nurse, having proper authority to prescribe, to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the Advanced Practice Nurse with proper authority to prescribe or the A.P.N.'s licensed supervisee and pursuant to appropriate protocols or orders, has completed and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
 - (a) Performed an appropriate history and physical examination; and
 - (b) Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good health care; and
 - (c) Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
 - (d) Insured availability of the Advanced Practice Nurse with proper authority to prescribe, or coverage for the patient for appropriate follow-up care.
- (2) An Advanced Practice Nurse having proper authority to prescribe, or the A.P.N.'s licensed supervisee and pursuant to appropriate protocols or orders, may prescribe or dispense drugs for a person not in compliance with paragraph (1) consistent with sound judgment, examples of which are as follows:
 - (a) In admission orders for a newly hospitalized patient; or
 - (b) For a patient of another physician or for an Advanced Practice Nurse with proper authority to prescribe for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication; or

- (c) For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; or
 - (d) For established patients who, based on sound practices, the Advanced Practice Nurse having proper authority to prescribe, feels do not require a new physical examination before issuing new prescriptions.
- (3) Except as provided in paragraph (2), it shall be a prima facie violation of T.C.A. § 63-7-115 (a) (1) (C) and (F) for an Advanced Practice Nurse having proper authority to prescribe, or the A.P.N.'s licensed supervisee and pursuant to appropriate protocols or orders, to prescribe or dispense any drug to any individual for whom the Advanced Practice Nurse with proper authority to prescribe, or the A.P.N.'s licensed supervisee and pursuant to appropriate protocols or orders, has not complied with the provisions of this rule based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.
- (4) Advanced Practice Nurses having proper authority to prescribe, who elect to dispense medication for remuneration must comply with all Federal Regulations (21 CFR 1304 through 1308) for the dispensing of controlled substances.
- (5) Non-controlled drugs are to be dispensed in an appropriate container labeled with at least, the following:
- (a) Patient's name.
 - (b) Date.
 - (c) Complete directions for usage.
 - (d) The name and address of the Advanced Practice Nurse having proper authority to prescribe.
 - (e) A unique number, or the name and strength of the medication.
- (6) Whenever dispensing takes place, appropriate records shall be maintained. A separate log must be maintained for controlled substances dispensing.
- (7) It is not the intention of this Rule to interfere with the individual Advanced Practice Nurses, having proper authority to prescribe, and their appropriate use of professional samples, nor is it to interfere in any way with the rights of Advanced Practice Nurses, who have proper authority to prescribe, to directly administer drugs or medications to any patient.

Authority: T.C.A. §§4-5-202, 4-5-204, 53-11-301, 63-7-115, 63-7-123, 63-7-126, and 63-7-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2004.
(05-12)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of 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 23rd 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 1150-1-.08, Examinations, is amended by deleting subparagraph (8) (a) and paragraph (9) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (8) (a) and the new paragraph (9) shall read:

- (8) (a) A candidate who fails the examination is eligible to repeat the licensure examination process described in this rule. An applicant who fails to qualify for licensure after a total of two (2) examination attempts, in any state, shall wait at least three (3) months after the last unsuccessful attempts before reapplying for examination.
- (9) Remediation – Applicants who have twice failed the examination must obtain an Examination Performance Feedback report. This is a detailed diagnostic score report provided by the FSBPT for a fee. The applicant must develop a remediation plan. Such plan should be developed with the assistance of faculty at his/her accredited physical therapy educational program. The plan must outline the measures to be taken to address the weak areas, and must include the observation of physical therapy being practiced in a clinical setting for a minimum of twenty (20) hours during the three (3) month period described in subparagraph (8) (a).
 - (a) The applicant must sign and submit the written plan for remediation to the Committee prior to implementation of the plan,
 - (b) The Committee's consultant or any Committee member may preliminarily review and approve the written plan, and a final decision will be made at the next Committee meeting.

- (c) The plan must be approved before it can be implemented. If the Committee approves the plan, the applicant must complete the plan and submit a report to the Committee detailing the completion of each element of the remediation plan. Applicants will only be allowed to retake the examination after the remediation process has been approved and completed.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-306, and 63-13-307.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2004 (05-13)

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

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Occupational Therapy to consider the promulgation of amendments to rules and a new 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 Cumberland Room of the Cordell Hull Building located at 425 5th Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 22nd 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, Tennessee 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1150-2-.01, Definitions, is amended by adding the following language as new paragraph (13) and renumbering the remaining paragraphs accordingly.

- (13) Continued Competence – A dynamic, multidimensional process beyond entry level requirements in which an occupational therapist or an occupational therapy assistant develops and maintains the knowledge, performance skills, interpersonal abilities, critical reasoning skills, and ethical reasoning skills necessary to perform his or her professional responsibilities.

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

Rule 1150-2-.09, Renewal of Certificate, is amended by deleting part (1) (c) 2. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (1) (c) 3., and is further amended by deleting part (2) (a) 2. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (2) (a) 3., so that as amended, the new parts (1) (c) 2., (1) (c) 3., (2) (a) 2., and (2) (a) 3. shall read:

- (1) (c) 2. The renewal and state regulatory fees as provided in Rule 1150-2-.06; and
- (1) (c) 3. A statement attesting to the completion of continued competence requirements, as provided in Rule 1150-2-.12.
- (2) (a) 2. Payment of the late renewal fee in Rule 1150-2-.06; and
- (2) (a) 3. Submitting proof of completion of continued competence requirements, as provided in Rule 1150-2-.12.

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

Rule 1150-2-.11, Retirement and Reactivation of Certificate, is amended by deleting subparagraph (3) (b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (3) (c), so that as amended, the new subparagraphs (3) (b) and (3) (c) shall read:

- (3) (b) Pay the certification renewal fees and state regulatory fee as provided in Rule 1150-2-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Committee will require payment of the late renewal fee and all past due certification renewal fees; and
- (3) (c) Complete the continued competence requirements, as provided in Rule 1150-2-.12.

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

NEW RULE

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1150-2-.12 Continued Competence

1150-2-.12 CONTINUED COMPETENCE. On January 1, 2005 the Committee shall begin to notify applicants for certificate renewal of the continued competence requirements as provided in T.C.A. § 63-13-204 (d). The Committee shall require each licensed occupational therapist and occupational therapist assistant to participate in a minimum number of activities to promote continued competence for the two (2) calendar years (January 1-December 31) that precede the certification renewal year (a.k.a. biennium). Beginning January 1, 2007 all applicants for certification, renewal of certification, reactivation of certification, or reinstatement of certification must demonstrate competency.

- (1) The requirements for continued competence activities are defined as planned learning experiences that occur beyond the entry level educational requirements for occupational therapists and occupational therapist assistants. Content of the experiences must relate to a certificate holder's current or anticipated roles and responsibilities in occupational therapy. Qualified learning experiences may include theoretical or practical content related to the practice of occupational therapy; research; management; or the development, administration, supervision, and teaching of clinical practice or service delivery programs in occupational therapy. The purpose of this requirement is to assist in assuring safe and effective practices in the provision of occupational therapy services to the citizens of Tennessee.
- (2) For applicants approved for initial certification by examination, successfully completing the requirements of Rules 1150-2-.04, .05, and .08, as applicable, shall be considered proof of sufficient competence to constitute compliance with this rule for the initial period of certification. The use of physical agent modalities by any certificate holder requires additional certification pursuant to Rule 1150-2-.04.
- (3) Occupational Therapists and Occupational Therapy Assistants are required to complete twenty-four (24) continued competence credits for the two (2) calendar years (January 1 - December 31) that precedes the licensure renewal year.
- (4) Twelve (12) of the required twenty-four (24) continued competence credits must be directly related to the delivery of occupational therapy services.
- (5) Two (2) hours of the required twenty-four (24) continued competence credits shall pertain to the AOTA Code of Ethics.
- (6) Two (2) hours of the required twenty-four (24) continued competence credits shall pertain to the occupational therapy portions of T.C.A. §§ 63-13-101, et seq., the Tennessee Occupational and Physical Therapy Practice Act, and shall pertain to Chapter 1150-2, General Rules Governing the Practice of Occupational Therapy.
- (7) Eight (8) hours of the required twenty-four (24) continued competence credits may pertain to the certificate holder's professional role.
- (8) Continued competence credits are awarded pursuant to the Activity Table in paragraph (11).
- (9) Pre-Approved Continued Competence Activity Providers
 - (a) American Medical Association (AMA)
 - (b) American Nurses Association (ANA)
 - (c) American Occupational Therapy Association (AOTA) and the AOTA's approved provider program
 - (d) American Physical Therapy Association (APTA)

- (e) American Speech—Language—Hearing Association (ASHA)
 - (f) International Association of Continuing Education (IACET)
 - (g) Rehabilitation Engineering and Assistive Technology Society of North America (RESNA)
 - (h) Tennessee Occupational Therapy Association (TOTA)
 - (i) State occupational therapy associations
 - (j) State occupational therapy regulatory agencies
 - (k) Accredited colleges and universities
- (10) The Committee does not pre-approve continued competence activities. It is the responsibility of the certified occupational therapist and occupational therapist assistant to use his/her professional judgment in determining whether or not the activities are applicable and appropriate to his/her professional development and meet the standards specified in these rules.
- (11) Activity Table (Per Two [2] Year Cycle)

	Approved Activities	Equivalency	Max.Credits	Documentation
(a)	Volunteer Services to organizations, populations, individuals, that advance the reliance on the use of one’s OT skills and experiences.	5 Hours Equals 1 Credit	12 Credits	Verification letter from organizations. Describe outcomes of volunteer service provided. (See guidelines on the Committee’s web page at Tennessee.gov/health)
(b)	Attending workshops, seminars, lectures, professional conferences offered by approved providers such as TOTA, AOTA, AMA, ASHA, APTA, state OT associations and regulatory boards, IACET, or a 3 rd party entity that reviews and approves the course and provider.	1 Hour Equals 1 Credit	24 Credits	Certificates of attendance, original letter from sponsor of course.

	Approved Activities	Equivalency	Max.Credits	Documentation
(d)	Attending employer-provided continuing education.	1 Hour Equals 1 Credit	12 Credits	Attendance records, certificates, name, date of course. (Attending OSHA, CPR & Safety Courses required for maintaining employment are not acceptable.)
(e)	Attaining a specialty certification (i.e., Certified Hand Therapist.)	10 Credits	20 Credits	Award of certification within the renewal cycle.
(f)	Making professional presentations at state, national or international workshops, seminars, and conferences.	1 Hour Equals 2 Credits	20 Credits	Copy of presentation, or program listing.
(g)	Poster presentations for state, national, or international workshops, seminars, and conferences.	1 Credit	12 Credits	Copy of presentation, or program listing.
(h)	Publication of an OT article in non-peer-reviewed publication (e.g., OT Practice, SIS Quarterly, Advance, Community Newsletters, etc.)	1 Article Equals 5 Credits	20 Credits	Copy of publication.
(i)	Publication of article in peer-reviewed professional publication (e.g., journals, book chapter, research paper)	1 Article Equals 10 Credits	20 Credits	Copy of publication.
(j)	Publication of chapter (s) in occupational therapy or related professional textbook.	1 Chapter Equals 10 Credits	20 Credits	Copy of text, original letter from editor.
(k)	Mentoring a certified OT colleague to improve the skills of the protégé. (Mentor must be currently licensed).	10 Hours Equals 2 Credits	12 Credits	Goals and objectives, analysis of protégé performance. (See guidelines)

	Approved Activities	Equivalency	Max.Credits	Documentation
(l)	Mentoring other professionals in good standing to improve the skills of the protégé. (Mentor must be currently licensed.)	10 Hours Equals 2 Credits	12 Credits	Goals and objectives, analysis of protégé performance. (See guidelines)
(m)	Mentoring with other professionals in good standing to improve the skills of the protégé. (Protégé must be currently licensed.)	10 Hours Equals 2 Credits	12 Credits	Goals and objectives established in collaboration with the mentor and self-analysis of performance. (See guidelines)
(n)	Reflective occupational therapy practice in collaboration with an advanced certified OT colleague to improve one's skill level.	10 Hours Equals 2 Credits	12 Credits	Verification of skills obtained. Evaluation experience. Analysis of learning. (See guidelines)
(o)	Guest lecturer, teaching OT related academic course per semester (must not be one's primary role). For one time lecture use presentation value, see subparagraph (f).	1 College Credit Hour Equals 6 Credits	20 Credits	Date, lecture or academic course title, name of institution, original letter from instructor regarding time spent in classroom, and course/lecture goals and objectives.

	Approved Activities	Equivalency	Max.Credits	Documentation
(p)	Independent reading peer-reviewed, role-related professional articles/chapters in textbook, and writing a report describing the implications for improving skills in one's specific role. Current copyright on textbook edition, which should not exceed 5 years at time of certification renewal. Textbooks required to be read for academic courses or audit courses are not allowed.	5 Articles and / or Chapters Equal 1 Credit	12 Credits	Annotated bibliography and analysis of how articles impacted improving skills in one's role. (See guidelines)
(q)	Providing professional in-service training and/or instruction for occupational therapists, occupational therapy assistants, and related professionals.	1 Hour Equals 1 Credit	12 Credits	In-Service training attendance records, goals, and objectives Original verification letter from supervisor.
(r)	Making presentations for local organizations/associations/groups on OT related topic. (e.g., energy conservation, back care and prevention of injury.)	1 Hour Equals 1 Credit	12 Credits	Date and location of presentation, copy of presentation or program listing; organization's contact person.
(s)	Level II fieldwork direct supervision OT or OTA (Not one's primary employment role.)	1 Credit per each Week of Supervision Per Student Supervised	12 Credits	Documentation required, name of student(s), letter of verification from school, dates of fieldwork. Co-supervision is acceptable; maintain dates & times when acting as primary student supervisor. Apply appropriate credits based on time spent supervising.

	Approved Activities	Equivalency	Max.Credits	Documentation
(t)	Professional manuscript review (editing) for journals or textbooks.	5 Hours Equals 1 Credit	12 Credits	Original letter from publishing organization, verifying time spent.
(u)	Formal academic coursework	1 Credit Hour per Semester Equals 10 Credits	20 Credits	Official transcript from an accredited educational institution.
(v)	Auditing formal academic coursework.	15 Clock Hours Equals 2 Credits	12 Credits	Original letter from instructor regarding time in class or labs at accredited schools. Report by OT/OTA on learning objectives accomplished.
(w)	Professional study group/online study group designed to advance knowledge through active participation.	3 Hours Equals 1 Credit	20 Credits	Group attendance records; study group goals; analysis of goal attainment and learning. (See guidelines)
(x)	Outcomes of self-assessment and professional development plan.	2 Credits for Self- Assessment and Professional Develop-ment Plan	2 Credits	Acceptable documents include a completed formal self-assessment and professional development plan describing how goals were met and how they impacted competence and skills.
(y)	Extensive scholarly research activities, or extensive outcome studies (defined as research associated with, e.g., grants, post graduate studies, peer reviewed journals)	10 Credits	20 Credits	Grant funding number, abstract-executive summary and/or copies of the completed research/studies.

	Approved Activities	Equivalency	Max.Credits	Documentation
(z)	Fellowship Training in specific area.	10 Credits (Minimum 12 Weeks)	12 Credits	Certificate awarded from sponsoring organization to include dates and learning objectives.
(aa)	Independent learning/study (e.g., CE articles, video, audio, and/or online courses.)	2 Hours Equals 1 Credit	12 Credits	CEUs, certificate of completion and # of contact hours awarded.
(bb)	Interactive online courses.	1 Hour Equals 1 Credit	12 Credits	CEUs, certificate of completion and # of contact hours awarded.
(cc)	External self-study series.	1 Hour Equals 1 Credit	20 Credits	Certificate of completion.
(dd)	Development of instructional materials using alternative media such as: video, audio and/or software programs to advance professional skills of others (not for proprietary use).	5 Credits	12 Credits	Program description and media/software materials available if requested during validation process.

(12) Documentation of compliance.

- (a) Each certificate holder must retain documentation of completion of all continued competence requirements of this rule for a period of five (5) years from when the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Committee during its verification process.
- (b) The certificate holder must, within forty-five (45) days of a request from the Committee, provide evidence of continued competence activities.
- (c) Any certificate holder who fails to complete the continued competence activities or who falsely certifies completion of continued competence activities may be subject to disciplinary action pursuant to T.C.A. §§ 63-13-108, 63-13-209, and 63-13-210.

(13) Reinstatement/Reactivation of an Expired or Retired Certificate.

- (a) Expired or retired for three (3) years or less - An individual whose certificate has expired or has been retired for three (3) years or less shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement year.
 - (b) Expired or retired more than three (3) years
 - 1. An individual whose certificate has expired or has been retired for more than three (3) years shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement year; and
 - 2. The Committee may, at its discretion, require additional education, supervised clinical practice, or successful passage of examinations.
- (14) The Committee, in cases of documented illness, disability, or other undue hardship, may waive the continued competence requirements and/or extend the deadline to complete continued competence requirements. To be considered for a waiver of continued competence requirements, or for an extension of the deadline to complete the continued competence requirements, a licensee must request such in writing with supporting documentation before the end of the two (2) year period in which the continued competence requirements were not met.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-209, and 63-13-210.

The notice of rulemaking set out herein was properly filed in the Department of State on the 19th day of May, 2004. (05-10)

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, 63-9-101, and 63-9-107. 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 9th day of August, 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-.02 Fees, is amended by deleting subparagraph (1) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b) shall read:

- (1) (b) Licensure Renewal Fee - To be paid biennially by all licensees. This fee also applies to licensees who reactivate a retired license. \$ 375.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of May, 2004. (05-24)

THE TENNESSEE BOARD OF PHARMACY - 1140

There will be a hearing before the State of Tennessee Board of Pharmacy to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §63-10-504(b)(1). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. §4-5-204 and will take place in Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00AM on the 21st day of September, 2004.

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

For a copy of this notice of rulemaking hearing, contact the Tennessee Board of Pharmacy, attention Kendall Lynch, 500 James Robertson Parkway, Davy Crockett Tower, 2nd Floor, Nashville, Tennessee 37243 at (615) 741-2718.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1140-1
INTRODUCTORY RULES****AMENDMENTS**

Paragraph (6) of rule 1140-1-.01 Definitions is amended by adding the following language as new paragraph (6) and renumbering the subsequent paragraphs accordingly:

- (6) “Centralized Prescription Processing” is the filling or refilling of a lawful prescription order written by the patient’s authorized prescriber by one (1) pharmacy licensed in the State of Tennessee at the request of another pharmacy licensed in the State of Tennessee for the delivery of the prescription drugs to the patient or patient’s agent.

Authority: *T.C.A. §63-10-504(b)(1) and (j).*

Rule 1140-1-.05 Licensing Examinations is amended by deleting the text of the rule in its entirety and substituting instead the following language, so that, as amended, the rule shall read:

1140-1-.05 LICENSING EXAMINATIONS.

- (1) An applicant for an initial license to engage in the practice of pharmacy in the State of Tennessee shall take the National Association of Boards of Pharmacy (NABP) Multistate Pharmacy Jurisprudence Examination (MPJE®) and the NABP North American Pharmacy Licensing Examination (NAPLEX), which shall be administered on the dates scheduled by the NABP. An applicant shall also meet the minimum acceptable passing scores on the NAPLEX and MPJE that are set by the NABP.
- (2) An applicant to obtain a pharmacy license by reciprocity shall successfully complete the MPJE.
- (3) In addition to completing the requirements in paragraph (1) of this rule, a pharmacy foreign graduate shall successfully complete the foreign pharmacy equivalency examination, the Test of Spoken English (TSE) examination and any other requirements established by the NABP.
- (4) Any applicant who fails either the NAPLEX or MPJE may retake the examinations at any of the next examination dates scheduled by the NABP. If an applicant fails the NAPLEX or MPJE three (3) consecutive times, then the Board may require that applicant to take review courses prior to any following reexamination.

Authority: *T.C.A. §§63-10-504(b)(1), 63-10-506(b), (c)(1) and (c)(2).*

Rule 1140-1-.14(4) Prescription Drugs Dispensed by Health Departments is amended by adding the following language as a new subparagraph (n) immediately following subparagraph (m):

- (n) Medroxyprogesterone Acetate Injectable (Depo Provera®)

Authority: *T.C.A. §§63-10-405 and 63-10-504(b)(1).*

**CHAPTER 1140-3
STANDARDS OF PRACTICE**

AMENDMENTS

Rule 1140-3-.15 Reference Books is amended by deleting the text of the rule in its entirety and substituting instead the following language, so that, as amended, the rule shall read:

1140-3-.15 REFERENCE BOOKS.

Each pharmacy practice site shall maintain an adequate reference library (printed or electronic) consistent with its scope of practice. The reference library may include a current edition of the Tennessee Pharmacy Laws issued by the Tennessee Board of Pharmacy, current material regarding the technical, clinical, and professional components of the practice of pharmacy, with particular emphasis in the area in which the pharmacy specializes.

Authority: T.C.A. §63-10-504(b)(1) and (2).

**CHAPTER 1140-3
STANDARDS OF PRACTICE**

NEW RULE

TABLE OF CONTENTS

1140-3-.16 Automated Dispensing Devices for Pharmacy Practice

1140-3-.16 AUTOMATED DISPENSING DEVICES FOR PHARMACY PRACTICE.

CENTRALIZED PRESCRIPTION PROCESSING:

- (1) A pharmacy may perform or outsource centralized prescription processing services to another pharmacy, provided that the following criteria are satisfied:
 - (a) both pharmacies shall be licensed in the State of Tennessee; and
 - (b) both pharmacies shall share a common electronic file or both shall have the appropriate technology to allow each other access to information that is necessary to fill or refill a prescription order; and
 - (c) both pharmacies shall have the same owner or in the event that the pharmacies do not have the same owner, then the pharmacies shall enter a written contract stating the services that will be provided by each pharmacy as well as the responsibilities of each pharmacy in fulfilling the terms of the contract and in complying with federal and state laws and rules.
- (2) The pharmacy performing or contracting for centralized prescription processing services shall maintain a policy and procedures manual stating how prescription orders will be filled or refilled through centralized prescription processing. The pharmacies shall provide the Board with a copy of the manual and appropriate documentation of the processes for the Board's review, upon the Board's request. The pharmacies shall ensure that the manual includes, but is not limited to the following:

- (a) a description of how the pharmacies will comply with federal and state law and rules;
- (b) the maintenance of records to identify the responsible pharmacist(s) in the dispensing and counseling processes;
- (c) the maintenance of a mechanism for tracking the prescription order during each step of the dispensing process:
 - 1. the maintenance of a mechanism to identify all of the pharmacies involved in dispensing the prescription order on the prescription label;
 - 2. adequate security measures to protect the confidentiality and integrity of the patient information; and
 - 3. the maintenance of a quality assurance program for pharmacy services designed to objectively and systematically monitor and evaluate the quality of patient care, the identification of problems with patient care and the resolution of any identified problems with patient care.
- (d) The pharmacies that are not physically located in the State of Tennessee shall comply with T.C.A. Title 63, Chapter 10 and the rules of the State of Tennessee Board of Pharmacy.

Authority: T.C.A. §§63-10-504(b)(1), (2) and 63-10-504(j).

CHAPTER 1140-5 CONTINUING EDUCATION

AMENDMENTS

Paragraph (1) of rule 1140-5-.01 Requirements for Pharmacist License Renewal is amended by deleting the text of the paragraph in its entirety and substituting instead the following language, so that, as amended, the paragraph shall read:

- (1) Every person licensed as a pharmacist shall complete at least thirty (30) contact hours of continuing pharmaceutical education during each two (2) year license cycle. The required thirty (30) hours shall consist of at least fifteen (15) hours obtained through live contact programs. In order to fulfill the fifteen (15) live contact hour requirement, a pharmacist shall obtain the hours from a program designated as “live” by the ACPE-approved provider, from a program that is approved by the Board prior to the expiration of the pharmacist’s license or from an out-of-state program that is approved by the board of pharmacy in the state where the program was presented.

Authority: T.C.A. §§ 63-10-404(5), (26), 63-10-504(b)(1) and 63-10-506(g).

CHAPTER 1140-6 NUCLEAR PHARMACY PRACTICE SITES

AMENDMENTS

Rule 1140-6-.03 Library is amended by deleting the text of the rule in its entirety and substituting instead the following language, so that, as amended, the rule shall read:

1140-6-.03 LIBRARY.

Each nuclear pharmacy practice site shall maintain an adequate reference library (printed or electronic) consistent with its scope of practice. The reference library may include a current edition of the Tennessee Pharmacy Laws issued by the Tennessee Board of Pharmacy, current material regarding the technical, clinical, and professional components of the practice of pharmacy, with particular emphasis in the area in which the pharmacy specializes.

Authority: T.C.A. §63-10-504(b)(1) and (2).

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of May, 2004. (05-32)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 5th day of August, 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 1330-1-.12, Continuing Education, is amended by deleting subparagraph (1) (a) in its entirety and substituting instead the following language, and is further amended by deleting part (2) (b) 4. in its entirety, and is further amended by adding the following language as subparagraph (2) (c), and is further amended by deleting subparagraph (3) (b) and part (4) (a) 3. in their entirety and substituting instead the following language, and is further amended by adding the following language as part (4) (a) 4., and is further amended by deleting subparagraph (5) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (a), (2) (c) and (3) (b), the new parts (4) (a) 3. and (4) (a) 4., and the new subparagraph (5) (c) shall read:

- (1) (a) Each therapist and assistant licensed by the Board must complete ten (10) contact hours of continuing education every calendar year. All courses must be at least thirty (30) minutes in length.
 1. Eight (8) hours of the ten (10) hour requirement shall pertain to the clinical practice of respiratory care or to research relating to the cardio-pulmonary system.
 2. Two (2) hours of the ten (10) hour requirement may pertain to the management of practicing respiratory care or may pertain to ethics and substance abuse.
- (2) (c) Multi-Media Formats—Continuing education activities/courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in multi-media formats.
 1. Multi-media courses are courses utilizing:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (x) Distance learning
 2. A maximum of five (5) credit hours may be granted for multi-media courses during each calendar year.

- (3) (b) Application for approval shall contain the topic, speaker credentials, a brief description of content or content objectives, the sponsoring institution or organization, the length in minutes of each presentation, and the number of credit hours requested. Activities/courses that are being offered in traditional classroom and lecture formats shall also include the date and the place of instruction.
- (4) (a) 3. Written documentation of training that is kept by the respiratory care practitioner's employer.
- (4) (a) 4. Certificates or letters verifying successful completion of a written post experience examination to evaluate material retention upon completion of a multi-media course.
- (5) (c) Independent unstructured or self-structured learning such as home study programs, except as authorized pursuant to subparagraph (2) (c).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-27-104, and 63-27-109.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of May, 2004.
(05-20)

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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 May 3, 2004, and ending May 31, 2004.

A handwritten signature in black ink that reads '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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