

TAAAR



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RILEY C. DARNELL

Secretary of State

Division of Publications
8th Floor, Snodgrass Tennessee Tower
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PREFACE

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

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

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

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

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

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

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

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

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TABLE OF CONTENTS

ANNOUNCEMENTS

Financial Institutions, Department of
Announcement of Formula Rate of Interest 1
Announcement of Maximum Effective Rate of Interest 1
Government Operations Committees
Announcement of Public Hearings 1
Health Services and Development Agency
Notice of Beginning of Review Cycle 4
TN Massage Licensure Board
Notice of Withdrawal of Rules 7

EMERGENCY RULES

Emergency Rules Now in Effect 9

PROPOSED RULES

Health, Department of 11
Safety, Department of 12

PUBLIC NECESSITY RULES

Public Necessity Rules Now in Effect 21

RULEMAKING HEARINGS

Chiropractic Examiners, Board of 23
Environment and Conservation, Department of 28
Health, Department of 40
Human Services, Department of 62
Massage Licensure Board 63
Medical Examiners, Board of 64
Nursing Administrators, Board of 65
Psychology, Board of Examiners in 67
Treasury Department 68
Wildlife Resources Commission 82

CERTIFICATION 89

(page vi is blank)

ANNOUNCEMENTS

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 9.00%.

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 January 2004 is 8.89 percent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the calculated rate is 4.89 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	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
11-01	Nov 2, 2004	1200 Health Health Related Boards	Proposed Rules	Amendment	<i>Chapter 1200-10-2</i> <i>General Rules and Regulations Governing the Practice of Reflexology</i> 1200-10-2-.04 Registration Applications and Requirements	Nicole Armstrong OGC 26th Fl TN Twr 312 8th Ave N Nashville TN 37247-0120 615-741-1611	March 30, 2005
11-05	Nov 4, 2004	1240 Human Services Child Support Division	Rulemaking Hearing Rules	Repeal and new chapter	<i>Chapter 1240-2-4</i> <i>Child Support Guidelines</i> 1240-2-4-.01 Legal Basis, Scope, and Purpose. 1240-2-4-.02 Definitions. 1240-2-4-.03 The Income Shares Model. 1240-2-4-.04 Determination of Child Support. 1240-2-4-.05 Modification of Child Support Orders. 1240-2-4-.06 Retroactive Support. 1240-2-4-.07 Deviations from the Child Support Guidelines. 1240-2-4-.08 Worksheets and Instructions. 1240-2-4-.09 Child Support Schedule.	Barbara Broersma Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville TN 37248-0006 615-313-4731	Jan 18, 2005
11-06	Nov 5, 2004	0400 Environment And Conservation Division of Superfund	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-1-19</i> <i>Standards For Testing And Cleaning Quarantined Clandestine Drug Manufacturing Sites</i> 1200-1-19-.01 Standards For Determining Living Space Safe For Human Use 1200-1-19-.02 Use Of Qualified Professionals For Sampling	Alan Leiserson OGC 20th Fl L&C Twr 401 Church St Nashville TN 37243-1548 615-532-0131	Jan 19, 2005
11-08	Nov 8, 2004	1340 Safety Driver Improvement Section	Proposed Rules	New Rules	<i>Chapter 1340-1-14</i> <i>Rules of Ignition Interlock Device Program</i> 1340-1-14-.01 Purpose and Scope 1340-1-14-.02 Definitions 1340-1-14-.03 Application Procedures 1340-1-14-.04 General Requirements 1340-1-14-.05 Approved Ignition Interlock Device Requirements 1340-1-14-.06 Ignition Interlock Provider Owner/Personnel Requirements 1340-1-14-.07 Ignition Interlock Installation Requirements 1340-1-14-.08 Provider Orientation of Program Participant 1340-1-14-.09 Proof of Installation of Ignition Interlock Devices 1340-1-14-.10 Monitoring Requirements 1340-1-14-.11 Repair or Replacement of	Captain Mike Walker Driver Improvement Section Department of Safety 1150 Foster Avenue- McCord Hall Nashville TN 37249-1000 (615) 251-5151	March 30, 2005

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
11-08, cont.					Ignition Interlock Devices 1340-1-14-.12 Program Status Report 1340-1-14-.13 Fees 1340-1-14-.14 Financial Responsibility Requirements 1340-1-14-.15 Liability 1340-1-14-.16 Audits and Inspections 1340-1-14-.17 Suspension, Revocation or Denial of Certification 1340-1-14-.18 Administrative Hearings		
11-11	Nov 15, 2004	1240 Human Services Adult and Family Services Division	Rulemaking Hearing Rules	New chapter	<i>Chapter 1240-4-2 Licensure Rules for Drop-In Child Care Centers</i>	William B. Russell Citizen's Plaza Bldg 400 Deaderick St Nashville TN 37248-0006 (615) 313-4731	Jan 29, 2005
11-12	Nov 17, 2004	0400/1200 Environment and Conservation Division of Solid Waste Management	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-7 Solid Waste Processing and Disposal</i> 1200-1-7-.01 Solid Waste Management System: General 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities	Glenn Birdwell Solid Waste Management L & C Twr 5th Fl 401 Church St Nashville TN 37243 (615) 253-6689	Jan 31, 2005
				New Rules	1200-1-7-.13 Requirements For Land Application Facilities		

ANNOUNCEMENTS

HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720

*Notice of Beginning of Review Cycle
Applications will be heard at the **January 26, 2005***

*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 **November 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), 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 for the applicant no later than fifteen (15) days before the agency meeting at which the application is originally scheduled for consideration.

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

NAME AND ADDRESS

Mahogany Hospice Care, Incorporated
901 Division Street
Nashville (Davidson County), TN 37203
CN0408-073
Contact Person: Tony L. Suggs, R.N.
Phone No. 877-336-2519

The applicant will treat terminally ill patients diagnosed with six month life expectancy. Care will be provided for individuals diagnosed with Heart Disease, Aids, Cancer, Stroke, Diabetes and Hypertension which affect African Americans and the disadvantaged poor disproportionately. The goal of Mahogany Hospice Care, Inc. is to provide community-based healthcare services to underserved African Americans, disadvantaged poor and those that utilize TennCare as primary insurance. The primary office location will be in Davidson County at West End Center, 3200 West End Avenue, Suite 500, Nashville, Tennessee 37203. The hospice will initially service Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Williamson and Wilson Counties

.\$ 58,208.56

ANNOUNCEMENTS

East Tennessee Ambulatory Surgery Center, LLC
701 Med-Tech Parkway
Johnson City (Washington County), TN 37601
CN0408-082
Contact Person: William H. West, Attorney
Phone No. 615-726-5600

The relocation of the ambulatory surgical treatment center (ASTC) from the current site at 302 Wesley Street, Suite 8, Johnson City to 701 Med-Tech Parkway, Johnson City (Washington County), Tennessee.
\$ 1,640,683.00

Sunbridge Care and Rehab for LaFollette (Regency of Tennessee d/b/a)
136 Davis Lane
LaFollette (Campbell County), TN 37766
CN0408-084
Contact Person: Juanita Honeycutt, Administrator
Phone No. 423-562-0760

The conversion of four (4) existing home for the aged beds to long term care dually certified nursing home beds for a total of one hundred eight-two (182) beds. Home for the aged beds will be discontinued.
\$ 3,000.00

Vanderbilt University Hospital
211 22nd Avenue South
Nashville (Davidson County), TN 37203
CN0410-091
Contact Person: Ronald W. Hill, Vice President, Strategic Development
Phone No. 615-936-6012

The acquisition of a multi-slice CT scanner to be located within previously approved Emergency Department space to equip the Emergency Department and Trauma Center with the state-of-the-art technology and to provide additional capacity to handle the approved expansion of the Emergency Department.
\$ 2,098,852.00

Oneida Imaging Center
19230 Alberta Avenue, Highway 27
Oneida (Scott County), TN 37841
CN0410-092
Contact Person: William H. West, Attorney
Phone No. 615-726-5600

The establishment of a outpatient diagnostic center (ODC), acquisition of magnetic resonance imaging (MRI) equipment and the initiation of MRI scanning services at 19230 Alberta Avenue, Highway 27, Oneida, Tennessee 37841.
\$ 2,150,548.00

Baptist Hospital of East Tennessee
137 Blount Avenue
Knoxville (Knox County), TN 37920
CN0410-095
Contact Person: John B. Sylvia, Director of Planning
Phone No. 865-632-5166

The discontinuance of obstetrical services. This project will not increase or decrease the licensed bed complement of the hospital. No other major medical equipment will be involved and no other health services are being proposed
\$ 13,000.00

Patient Partners Surgery Center
870 North Blue Jay Road
Gallatin (Sumner County), TN 37066
CN0410-096
Contact Person: William Southwick, Chief Manager
Phone No. 615-329-9000

The establishment of a multi-specialty ambulatory surgical treatment center (ASTC). The ASTC will contain approximately 8,300 square feet with two (2) operating rooms, one (1) procedure room, a holding area for pre and post surgery patients, and support space. The project does not contain any major medical equipment and will not initiate or discontinue any other health service.
\$ 3,286,378.00

Southern Sports Medicine
Suite 200, Plaza II, 2021 Church Street
Nashville (Davidson County), TN 37203
CN0410-097
Contact Person: John Wellborn, Consultant
Phone No. 615-665-2022

The acquisition of an extremities magnetic resonance imaging (MRI) unit and the initiation of MRI services limited to the patients of this physician practice, at its office in Suite 200, Plaza II, 2021 Church Street, Nashville, TN 37203. No facility license will be required for the MRI service
\$ 979,476.00

Baptist Memorial Hospital – Collierville
1500 West Poplar Avenue
Collierville (Shelby County), TN 38017
CN0410-098
Contact Person: Arthur Maples, Director, Strategic Analysis
Phone No. 901-227-4137

The discontinuance of obstetrical (OB) labor and delivery services. There will be no change in the licensed bed count of sixty-one (61) beds. The six (6) OB beds will be converted to medical/surgical beds. This project will not increase the licensed bed complement of the hospital. No major medical equipment or new services are involved.

\$ 35,000.00

TENNESSEE MASSAGE LICENSURE BOARD - 0870

NOTICE OF WITHDRAWAL OF RULES

The Tennessee Massage Licensure Board hereby gives notice of withdrawal of amendment to Rule 0870-1-.04, filed with the Department of State on the 18th day of October, 2004 to have become effective on the 1st day of January, 2005.

The notice of withdrawal of rules was properly filed in the Department of State on the 12th day of November, 2004. (11-09)

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EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0080 - Department of Agriculture - Division of Animal Industries - Emergency rules regarding Vesicular Stomatitis - Chapter 0080-2-1 Health Requirements for Admission tTransportation of Livestock and Poultry, 8 T.A.R. (August 2004) - Filed July 16, 2004; effective through December 28, 2004. (07-16)
- 0800 - Department of Labor and Workforce Development - Division of Workers' Compensation - Emergency rules covering the procedures of assessment and appeal rights of penalties issued by the Workers' Compensation Division, chapter 0800-2-13 Penalty Program, 11 T.A.R. (November 2004) - Filed October 13, 2004; effective though March 27, 2005. (10-18)
- 1200 - Department of Health and Environment - Division of Superfund - Emergency rules providing standards for testing and cleaning clandestine drug manufacturing sites, chapter 1200-1-19 Standards for Testing and Cleaning Clandestine Drug Manufacturing Sites, 9 T.A.R. (September 2004) - Filed August 18, 2004; effective through January 30, 2005. (08-58)

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PROPOSED RULES

DEPARTMENT OF HEALTH - 1200 DIVISION OF HEALTH RELATED BOARDS

CHAPTER 1200-10-2 GENERAL RULES AND REGULATIONS GOVERNING THE PRACTICE OF REFLEXOLOGY

Presented herein is a proposed amendment of the Department of Health, Division of Health Related Boards submitted pursuant to Tennessee Code Annotated, Section 4-5-202, and pursuant to Public Chapter 465 of the Public Acts of 2004 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Division of Health Related Boards, to promulgate this rule amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed in the office of the Division of Health Related Boards on the First Floor of the Cordell Hull Building located at 425 5th Ave. North, Nashville, Tennessee 37247 1010 and in the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, TN 37243, and must be signed by twenty five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule amendment, or an association of twenty five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact:

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

The text of the proposed amendment is as follows:

AMENDMENT

Rule 1200-10-2-.04 Registration Applications and Requirements, is amended by deleting paragraph (2) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (2) (a) and (2) (d) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (3) in its entirety, so that as amended, the new paragraph (2) but not its subparagraphs, and the new subparagraphs (2) (a) and (2) (d) shall read:

- (2) Requirements
- (2) (a) An applicant shall cause to have submitted documentation of completion of a two hundred (200) hour reflexology only course offered by an institution approved by the Tennessee Higher Education Commission or its equivalent in other states. It is the applicant's responsibility to request that such documentation be submitted directly from the course provider to the Administrative Office.

- (2) (d) An applicant shall attest that he/she has not been convicted of any felony under the laws of this state or any other state within ten (10) years of applying for registration.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-30-102, 63-30-103, and 63-30-112.

The proposed rules set out herein were properly filed in the Department of State on the 2nd day of November, 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 30th day March, 2005. (11-01)

THE TENNESSEE DEPARTMENT OF SAFETY - 1340 DRIVER IMPROVEMENT SECTION

CHAPTER 1340-1-14 RULES OF IGNITION INTERLOCK DEVICE PROGRAM

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

For a copy of these proposed new rules, contact: Deborah Martin, Staff Attorney, Tennessee Department of Safety, Legal Division, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5296.

NEW RULES

TABLE OF CONTENTS

1340-1-14-.01 Purpose and Scope	1340-1-14-.10 Monitoring Requirements
1340-1-14-.02 Definitions	1340-1-14-.11 Repair or Replacement of Ignition Interlock Devices
1340-1-14-.03 Application Procedures	1340-1-14-.12 Program Status Report
1340-1-14-.04 General Requirements	1340-1-14-.13 Fees
1340-1-14-.05 Approved Ignition Interlock Device Requirements	1340-1-14-.14 Financial Responsibility Requirements
1340-1-14-.06 Ignition Interlock Provider Owner/Personnel Requirements	1340-1-14-.15 Liability
1340-1-14-.07 Ignition Interlock Installation Requirements	1340-1-14-.16 Audits and Inspections
1340-1-14-.08 Provider Orientation of Program Participant	1340-1-14-.17 Suspension, Revocation or Denial of Certification
1340-1-14-.09 Proof of Installation of Ignition Interlock Devices	1340-1-14-.18 Administrative Hearings

1340-1-14-.01. PURPOSE AND SCOPE.

To establish uniform, statewide, minimum standards for ignition interlock devices and for the certification of ignition interlock device providers and the approval of such providers pursuant to T.C.A. §55-10-412(e)(5).

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.02. DEFINITIONS.

- (1) Approved Ignition Interlock Device Provider means an individual or business which has been approved and certified by the Department as meeting all of the minimum requirements set forth in these rules.
- (2) Commissioner means the commissioner of the Tennessee Department of Safety.
- (3) Department means the Tennessee Department of Safety.
- (4) Ignition Interlock Device means a device which connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device.
- (5) Ignition Interlock Device Provider means a person or company engaged in the business of selling, leasing, servicing and/or monitoring ignition interlock devices.
- (6) Ignition Interlock Device Provider Certificate means a certificate provided by the Department, once the Department is satisfied that the Ignition Interlock Device Provider complies with all of the minimum requirements set forth in this rule.
- (7) Ignition Interlock Program means the Department of Safety's system of regulating ignition interlock devices and providers.
- (8) Ignition Interlock Program Participant means an individual who has been ordered by a court, pursuant to the provisions of T.C.A. §55-10-412, to operate a motor vehicle which has been equipped with a functioning ignition interlock device.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.03. IGNITION INTERLOCK DEVICE PROVIDER APPLICATION PROCEDURES.

- (1) Any individual or corporation shall make application on forms supplied by the Department.
 - (a) The application shall be completed in full and shall include the following:
 1. Name and address of individual or business applying to be an Approved Ignition Interlock Provider. The addresses of planned locations in Tennessee.
 2. A list of the names of the persons who will be installing, servicing or uninstalling the ignition interlock devices;

3. Three (3) or more business references; and
 4. Information pertaining to the business' or individual's experience in providing the services of installing, servicing and uninstalling ignition interlock devices in other jurisdictions.
- (2) Upon receipt of the application, the Department will process the application and conduct an on-site inspection; and
 - (3) The applicant will be notified by U.S. mail of the approval or denial of the application. If the application is approved, the applicant shall receive the Ignition Interlock Provider Certificate, which shall be valid for one (1) year. If the application is denied, the applicant will be informed of the reason.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.04. GENERAL REQUIREMENTS.

- (1) The rules, regulations and requirements established herein are minimums, and may be exceeded by the Approved Ignition Interlock Device Provider.
- (2) The Approved Ignition Interlock Device Provider shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program.
- (3) An Approved Ignition Interlock Device Provider shall have the ability to carry out the requirements as stated in this rule.
- (4) An Approved Ignition Interlock Device Provider shall provide and maintain a service center, which is easily accessible and open during normal business hours.
- (5) An Approved Ignition Interlock Device Provider shall comply with all minimum requirements for installation and any other state and federal laws applicable to ignition interlock devices or providers.
- (6) In order to continue as an Approved Ignition Interlock Provider, the Approved Ignition Interlock Device Provider shall submit to the Department an application to renew its certification sixty (60) days before the expiration of its certificate. The Department shall notify the Approved Ignition Interlock Device Provider of its decision before the expiration date of the current certificate. If re-approved, the Approved Ignition Interlock Provider shall receive a certificate valid for one (1) year. If re-certification is denied, the Department will make a written finding of the reason for denial. The Approved Ignition Interlock Provider shall have ten (10) days from the date of notification to correct any deficiencies and notify the Department in writing of such correction. The Approved Ignition Interlock Provider may also request a hearing pursuant to Paragraph 1340-1-14-.18.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.05. APPROVED IGNITION INTERLOCK DEVICE REQUIREMENTS.

- (1) Only ignition interlock devices that are alcohol specific fuel cell devices may be used. These must be capable of recording, through a reliable electronic information system, all reports required in these rules. It is mandatory that all devices meet or exceed the manufacturing standards established by the National

Highway Traffic Safety Administration (NHTSA) in the Federal Register/Vol. 57, No. 67/ Tuesday, April 7, 1992. Adherence to these standards must be verified by a laboratory which subscribes to the quality code of the International Standards Organization of the American National Standards Institute – or another commensurate laboratory approved by the Department.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.06 IGNITION INTERLOCK PROVIDER OWNER/PERSONNEL REQUIREMENTS.

- (1) Owner(s) of an Approved Ignition Interlock Device Provider shall not be an employee of the Department, shall have no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency, shall have and maintain a valid driver license and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program.
- (2) Personnel who work for an Approved Ignition Interlock Device Provider shall not be an employee of the Department, shall have no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency, shall have and maintain a valid driver license, and shall comply with all administrative rules and regulations that the Department may promulgate concerning the Ignition Interlock Program.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.07 IGNITION INTERLOCK INSTALLATION REQUIREMENTS.

- (1) An ignition interlock device shall be installed, serviced and uninstalled in all makes and models of motor vehicles only by personnel who have been certified by the manufacturer of the ignition interlock device in the installation, uninstallation and servicing of such device. The certified personnel shall only install, service or uninstall the approved ignition interlock devices at facilities, fixed or mobile, that have been inspected and approved by the Department.
- (2) Under no circumstances will the Ignition Interlock Program Participant be allowed to watch the installation of the ignition interlock device.
- (3) A reference and problem-solving guide, developed by the Approved Ignition Interlock Device Provider, shall be given to the Ignition Interlock Program Participant at the time of the installation. This guide shall include information on the correct operation of the ignition interlock device, location of service centers, service and procedures, emergency procedures, and how the ignition interlock device can detect non-compliance with the Ignition Interlock Program Participant's court order and device requirements.
- (4) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to materials such as tamper seals, installation instructions, and files of other Ignition Interlock Program Participants.
- (5) The Approved Ignition Interlock Device Provider shall follow all written instructions from the manufacturer of the ignition interlock device for device installation and uninstallation.
- (6) The Approved Ignition Interlock Device Provider will furnish a twenty-four (24) hour phone number to all Ignition Interlock Program Participants for use in the event of emergencies with the ignition interlock device.

- (7) The Approved Ignition Interlock Device Provider is required to inspect all vehicles prior to installation and determine if the vehicle is in acceptable mechanical and electrical condition. For reasons of safety, no ignition interlock device will be installed until and unless the vehicle is capable of supporting such installation. The Approved Interlock Ignition Device Provider shall maintain a log of such inspections and use the vehicle's inspection in the uninstallation process.
- (8) Installations shall be executed in a professional/workmanlike manner, according to accepted trade standards and the manufacturer's instructions.
- (9) Uninstallation of ignition interlock devices shall be carried out so that the ignition may be operated, reasonable wear and tear excepted, in the same manner as before installation of the ignition interlock device. All severed wires will be permanently soldered and insulated with heat-shrink-wrap or its equivalent.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.08. PROVIDER ORIENTATION OF PROGRAM PARTICIPANT.

- (1) The Approved Ignition Interlock Device Provider shall conduct an orientation on the correct use of the ignition interlock device for the Ignition Interlock Program Participant and for any family member or friend who may drive the vehicle. Ignition Interlock Program Participants will be informed of the need to ensure that all vehicle users are adequately trained which may require a subsequent visit.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.09 PROOF OF INSTALLATION OF IGNITION INTERLOCK DEVICES.

- (1) Within two (2) working days of installation of the ignition interlock device, the Approved Ignition Interlock Device Provider shall complete the appropriate form as designated by the Department, and submit it to the Department as proof of installation by mail, electronic transmission or facsimile. This notice shall include:
 - (a) Name, address and telephone number of the Ignition Interlock Program Participant;
 - (b) Owner, make, model, year, Vehicle Identification Number (VIN), license plate number, and insurance information of the vehicle to which the interlock ignition device is installed;
 - (c) Serial number of the ignition interlock device installed; and
 - (d) Length of ignition interlock device term, date of monitoring checks, and payment schedule.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.10 MONITORING REQUIREMENTS.

- (1) Servicing, inspection, and monitoring of each ignition interlock device shall occur thirty (30) days after the initial installation and at least every sixty (60) days thereafter. The Approved Ignition Interlock Provider shall maintain records on every Ignition Interlock Program Participant, including the results of every

monitoring check. Violations or evidence of non-compliance and the reasons for such will be reported to the Department by mail, electronic transmission or facsimile within forty-eight (48) hours of detection.

- (2) Within two (2) working days of performing a monitoring check, the Approved Ignition Interlock Device Provider shall send to the Department by mail, electronic transmission or facsimile, the following:
 - (a) Name of Ignition Interlock Program Participant whose device was monitored;
 - (b) Number of miles driven during the monitoring period;
 - (c) Charges for monitoring visit;
 - (d) Date of next scheduled monitoring visit;
 - (e) Any type of repair work performed on the ignition interlock device and probable cause for its need; and
 - (f) Any areas of discussion with the Ignition Interlock Program Participant concerning problems or questions with the device or the status of the Participant.
- (3) Within two (2) working days of performing a monitoring check, the Approved Ignition Interlock Device Provider shall report to the Department by mail, electronic transmission or facsimile any evidence of:
 - (a) Altering, tampering with, bypassing, or removal of the ignition interlock device;
 - (b) Failure to abide by the terms and conditions of the court order or lease agreement, including failure to appear for a monitoring visit;
 - (c) Lockouts or violations and reasons for such;
 - (d) Indications of non-compliance, such as failure to take a random or time test; and/or
 - (e) Data indicating that the Ignition Interlock Program Participant has attempted to start the vehicle while under the influence of alcohol.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.11 REPAIR OR REPLACEMENT OF IGNITION INTERLOCK DEVICE.

- (1) The Approved Ignition Interlock Provider shall respond to all service inquiries by phone within forty-five (45) minutes of initial contact. Repair or replacement of an ignition interlock device shall be conducted within forty-eight (48) hours of initial contact. The Approved Ignition Interlock Device Provider shall notify the Department of any changes in the ignition interlock device (i.e., Serial #, Type, etc.) by facsimile or electronic transmission within forty-eight (48) hours.
- (2) The Approved Ignition Interlock Device Provider shall be available to answer questions and to troubleshoot any mechanical problems relating to the ignition interlock device in the vehicle, or to repair/replace an inoperable or malfunctioning ignition interlock device during normal business hours.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.12 PROGRAM STATUS REPORT.

- (1) At the half-way point at which the ignition interlock device is installed in the Ignition Interlock Program Participant's vehicle, the Approved Ignition Interlock Device Provider shall submit a status report to the Department's Planning & Research Section by mail, electronic transmission or facsimile, which summarizes all problems related to the monitoring and servicing of the ignition interlock device, as well as any written complaints received concerning the ignition interlock device or the Ignition Interlock Device Provider. The reports shall include the following categories:
 - (a) Ignition Interlock Program Participant error in operation and reasons for such;
 - (b) Faulty automotive equipment;
 - (c) Apparent misuse or attempts to circumvent the ignition interlock device, which did or did not cause damage, and the reasons for such; and
 - (d) Ignition interlock device failure due to material defect, design defect, and/or workmanship errors in construction, installation, or calibration.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.13 FEES.

- (1) The fees for leasing or buying, monitoring, servicing, installation and uninstallation of the ignition interlock device shall be at a reasonable rate. The court may establish a payment schedule pursuant to T.C.A. §55-10-412.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.14 FINANCIAL RESPONSIBILITY REQUIREMENTS.

- (1) The manufacturer and Approved Ignition Interlock Device Provider shall maintain comprehensive general liability insurance in the amount of at least \$1,000,000.00 per occurrence with a \$3,000,000.00 aggregate total liability that shall cover defects or problems in or with product design and materials, workmanship during manufacture, calibration, installation and uninstallation, and use thereof. Such policies shall provide the Department with a forty-five (45) day prior written notice of cancellation, material change, or intent to lapse.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.15 LIABILITY.

- (2) The Approved Ignition Interlock Device Provider shall protect, save and hold harmless the State, all State Departments, Agencies, Boards and Commissions, as well as all Officials, Employees, Agents and Servants of the State of Tennessee (all in their official and individual capacities, both current and former), from any and all claims, demands, expenses, and liability arising out of an omission by the Approved Ignition Interlock Device Provider in the performance of its duties set forth in the law or these rules.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.16 AUDITS AND INSPECTIONS.

- (1) Approved Ignition Interlock Device Providers shall be subject to unannounced audits and inspections of all records and subject to suspension or revocation if sufficient cause exists as determined by the Department that the Approved Ignition Interlock Device Provider does not meet the requirements of any applicable law or these rules.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.17 SUSPENSION, REVOCATION OR DENIAL OF CERTIFICATION.

- (1) Failure to comply with any requirements set forth in the law or these rules may result in the denial, suspension or revocation of the Ignition Interlock Device Provider Certification. Other reasons for denial, suspension or revocation may include, but are not limited to the following:
 - (a) Non-compliance with any of the minimum requirements stated in this rule;
 - (b) Providing false or inaccurate information to the Department;
 - (c) Assisting in or providing information that will enable the Ignition Interlock Program Participant to circumvent or tamper with the ignition interlock device; or
 - (d) Voluntarily request that such action be taken.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

1340-1-14-.18 ADMINISTRATIVE HEARINGS.

- (1) An Approved Ignition Interlock Device Provider may request in writing an administrative hearing within ten (10) days of written notification of any proposed denial, suspension or revocation. Such hearing shall be held in accordance with the Uniform Administrative Procedures Act.

Authority: T.C.A. §§4-3-2009 and 55-10-412.

The proposed rules set out herein were properly filed in the Department of State on the 8th day of November, 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 30th day of March, 2005. (11-08)

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PUBLIC NECESSITY RULES

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

- 0180 - Department of Financial Institutions - Compliance Division - Public necessity rules pertaining to mortgage lending, loan servicing and loan brokering, rule 0180-17-1-.10 Fees, 10 T.A.R. (October 2004) - Filed September 29, 2004; effective through March 13, 2005. (09-26)
- 1200 - Department of Health - Community Services Division - Public necessity rule pertaining to Conrad J-1 Visa Waiver physicians, Chapter 1200-20-11 Rules and Regulations Governing the State Conrad J-1 Visa Waiver Program, 11 T.A.R. (November 2004) - Filed October 22, 2004; effective through April 5, 2005. (10-39)
- 1540 - TN Higher Education Commission - Public necessity rules relative to the waiver of tuition and fees for state employees, chapter 1540-1-4 Public Higher Education Fee Waivers for State Employees, 9 T.A.R. (September 2004) - Filed August 31, 2004; effective through February 12, 2005. (08-79)
- 1540 - TN Higher Education Commission - Public necessity rules relative to the fee discounts for children of licensed public school teachers and state employees, chapter 1540-1-5 Public Higher Education Fee Discounts for Children of Licensed Public School Teachers and State Employees, 9 T.A.R. (September 2004) - Filed August 31, 2004; effective through February 12, 2005. (08-81)
- 1640 - TN Student Assistance Corporation - Public necessity rules providing changes to Tennessee Code Annotated Title 49, Chapter 4, Part 9, chapter 1640-1-19 Tennessee Education Lottery Scholarship Program, 11 T.A.R. (November 2004) - Filed October 21, 2004; effective April 4, 2005. (10-38)

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RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-112, 63-4-114, 63-4-115, 63-4-119, and 63-4-123. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 3rd day of February, 2005.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0260-2-.12 Continuing Education, is amended by adding the following language as new subparagraph (1) (c), and is further amended by deleting paragraph (3) and subparagraph (7) (d) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (c), the new paragraph (3), and the new subparagraph (7) (d) shall read:

- (1) (c) Whenever the Board decides that there is information that is crucial for licensees to have it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must, as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every licensee attending each of its individual continuing education courses or group of courses.
- (3) Documentation
 - (a) Each licensee shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:

1. Original certificates verifying the licensee's attendance at continuing education program(s). The certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
 2. Original letters on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, licensee's name, and license number.
 3. Original certificates or letters verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.
- (b) Each licensee must retain copies of proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
- (c) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs describe in subparagraph (a).
- (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (7) (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, 63-4-114, and 63-4-115.

Rule 0260-2-.12 Continuing Education, is amended by adding the following language as new paragraph (3) and renumbering the remaining paragraphs accordingly:

- (3) Current licensee requirement—Before January 1, 2008 every licensee who has not already done so must submit satisfactory proof of having successfully completed, as part of the annual continuing education requirement, the six (6) hour course described in subparagraph (2) (a) of this rule. It is the Board's intent that the six (6) hour course described in subparagraph (2) (a) of this rule must be completed once by all licensees.

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

Rule 0260-3-.08 Examination is amended by deleting the language of the rule and substituting instead the following language, so that as amended, the new rule shall read:

0260-3-.08 EXAMINATION. The Board adopts as its own the limited permit examination of the American Chiropractic Registry of Radiologic Technologists as its certification examination. All applicants for certification will be required to successfully complete that examination. The Board adopts seventy percent (70%) as its passing score on that examination. Application to sit for that examination and any questions regarding the examination must be submitted directly to the examining agency and not to the Board.

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

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

- (2) (a) A two (2) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence is required for the first (1st) calendar year that continuing education is required and is in addition to the six (6) clock hour continuing education requirement in paragraph (1) of this rule.
- (3) Acceptable Continuing Education
 - (a) To be acceptable continuing education, the course shall be approved by the Board of Chiropractic Examiners or conducted by the Tennessee Chiropractic Association or the American Chiropractic Registry of Radiologic Technologists.
 - (b) Whenever the Board decides that there is information that is crucial for certificate holders to have it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must, as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every certificate holder attending each of its individual continuing education courses or group of courses.
- (4) Documentation
 - (a) Each certificate holder shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:
 1. Original certificates verifying the licensee's attendance at continuing education program(s). The certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certification number.
 2. Original letters on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, certificate holder's name, and certification number.
 3. Original certificates or letters verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as

provided in paragraph (6). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certification number.

- (b) Each certificate holder must retain copies of proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
- (c) The certificate holder must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs describe in subparagraph (a).
- (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, and 63-4-119.

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

- (3) Current certificate holder requirement—Before January 1, 2008 every certificate holder who has not already done so must submit satisfactory proof of having successfully completed, as part of the annual continuing education requirement, the two (2) hour course described in subparagraph (2) (a) of this rule. It is the Board's intent that the two (2) hour course described in subparagraph (2) (a) of this rule must be completed once by all certificate holders.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, and 63-4-119.

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

- (2) (a) A two (2) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence is required for the first (1st) calendar year that continuing education is required and is in addition to the six (6) clock hour continuing education requirement in paragraph (1) of this rule.
- (3) Acceptable Continuing Education
 - (a) To be acceptable continuing education, the course shall be approved by the Board of Chiropractic Examiners.

- (b) Whenever the Board decides that there is information that is crucial for certificate holders to have it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must, as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every certificate holder attending each of its individual continuing education courses or group of courses.
- (4) Documentation
- (a) Each certificate holder shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:
 - 1. Original certificates verifying the licensee's attendance at continuing education program(s). The certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certification number.
 - 2. Original letters on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, certificate holder's name, and certification number.
 - 3. Original certificates or letters verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (6). The certificates or letters must include the clock hours awarded (continuing education units must be converted to clock hours), program title, certificate holder's name, and certification number.
 - (b) Each certificate holder must retain copies of proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
 - (c) The certificate holder must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs describe in subparagraph (a).
 - (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, and 63-4-123.

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

- (3) Current certificate holder requirement—Before January 1, 2008 every certificate holder who has not already done so must submit satisfactory proof of having successfully completed, as part of the annual continuing education requirement, the two (2) hour course described in subparagraph (2) (a) of this rule. It is the Board's intent that the two (2) hour course described in subparagraph (2) (a) of this rule must be completed once by all certificate holders.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-112, and 63-4-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of November, 2004. (11-19)

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

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to T.C.A., Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A., Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 17th day of February, 2005.

Written comments will be included in the hearing records if received by the close of business February 17, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (February 17, 2005) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED CHANGE**CHAPTER 1200-3-2
DEFINITIONS****AMENDMENTS**

Subparagraph (c) of paragraph (1) of rule 1200-3-2-.01 General Definitions is amended by substituting for the present subparagraph (c), a new subparagraph (c) so that, as amended, the new subparagraph (c) shall read:

- (c) “Air Curtain Destructor or Air Curtain Incinerator” is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain.

Subparagraph (w) of paragraph (1) of rule 1200-3-2-.01 General Definitions is amended by substituting for the present subparagraph (w), a new subparagraph (w) so that, as amended, the new subparagraph (w) shall read:

- (w) Incinerator is any equipment, device, or contrivance used for disposal of waste or refuse by burning, including wigwam burners, air curtain destructors, and air curtain incinerators

Authority: TCA 68 201 105 and 4 5 201 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of November, 2004. (11-14)

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

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 17th day of February, 2005.

Written comments will be included in the hearing records if received by the close of business February 17, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (February 17, 2005) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED CHANGES

CHAPTER 1200-3-4 OPEN BURNING

Subparagraph (a) of paragraph (1) of rule 1200-3-4-.02 Definitions is amended by deleting the definition for “air curtain destructor or air curtain incinerator”) so that, as amended, the new subparagraph (a) shall read:

- (a) Repealed.

Subparagraph (d) of paragraph (1) of rule 1200-3-4-.02 Definitions is amended by substituting for the present Subparagraph (d), a new Subparagraph (d) so that, as amended, the new Subparagraph (d) shall read:

- (d) “Open Burning” is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack. The use of an air curtain destructor or air curtain incinerator is considered incineration subject to the permitting requirements of Rule 1200-3-9, and is explicitly not considered open burning.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

Paragraph (6) of rule 1200-3-4-.03 Open Burning Prohibited is amended by deleting the entire Paragraph (6) so that, as amended, the new paragraph (6) shall read:

- (6) Repealed.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

Subparagraph (k) of paragraph (1) of rule 1200-3-4-.04 Exceptions To Prohibition is amended by deleting the entire Subparagraph (k) so that, as amended, the new subparagraph (k) shall read:

- (k) Repealed.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202.

This notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of November, 2004. (11-15)

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

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 17th day of February, 2005.

Written comments will be included in the hearing records if received by the close of business February 17, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (February 17, 2005) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

SUBSTANCE OF PROPOSED CHANGES

**CHAPTER 1200-3-9
CONSTRUCTION AND OPERATING PERMITS**

AMENDMENTS

Item 3. of subparagraph (d) of paragraph (4) of rule 1200-3-9-.04 Exemptions is amended by substituting for the present Item 3., a new Item 3. so that, as amended, the new Item 3. shall read:

3. Any air contaminant source constructed and operated at a domestic residence solely for domestic use.

Item 7. of subparagraph (f) of paragraph (5) of rule 1200-3-9-.04 Exemptions is amended by substituting for the present Item 7., a new Item 7. so that, as amended, the new Item 7. shall read:

7. Operations regulated under Chapter 1200-3-4 (Open Burning) of these Regulations.

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of November, 2004. (11-16)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400 DIVISION OF RADIOLOGICAL HEALTH

There will be a hearing before the Tennessee Department of Environment and Conservation to consider the promulgation of amendments pursuant to T.C.A. 68-202-101 et seq. and 68-202-201 et seq. 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 17th Floor Conference Room of the L & C Tower located at 401 Church Street, Nashville, Tennessee, at 1:00 p.m. (CST), on the 20th day of January 2005.

Individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone or other means and should be made no less than ten (10) days prior to January 20, 2005, or ten (10) days prior to the date such party intends to review such filings, to allow time for the Department to determine how it may reasonably provide such aids or services. Contact the Tennessee Department of Environment and Conservation, John White, ADA Coordinator, L & C Annex, Seventh Floor, 401 Church Street, Nashville, TN 37243; (615) 532-0207. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

AMENDMENT

Subparagraph (1)(b) and part (1)(c)1. of Rule 1200-2-5-.122 Disposal by Release into Sanitary Sewerage are amended by deleting the words "Table 2, Column 3" and substituting the words "Table 3", so that as amended the subparagraph and part shall read:

- (1) (b) The quantity of radioactive material the licensee releases into the sewer in any one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table 3 of Schedule RHS 8-30; and

- (c) 1. The license shall determine the fraction of the limit in Table 3 of Schedule RHS 8-30 represented by its releases into sanitary sewerage. This shall be done by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table 3 of Schedule RHS 8-30; and

Authority: T.C.A. §§4-5-201 et seq., 68-202-203 and 68-202-206.

SUMMARY OF PROPOSED RULES

AMENDMENT

In order to maintain compatibility with the Nuclear Regulatory Commission, the Division of Radiological Health is adding a column labeled "Table III Releases to Sewers" to rule 1200-2-5-.161 Schedules, Schedule RHS 8-30 "Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage".

OTHER INFORMATION

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Barbara A. Davis at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive comments in its Central Office by 4:30 (CST), February 20, 2005, in order to assure consideration.

Copies of draft rules are available for review in the Public Access Areas of the following Departmental Assistance Centers:

Chattanooga Environmental Assistance Center
State Office Building
540 McCallie Avenue, Suite 550
Chattanooga TN 37402-2013
(423) 634-5745/1-888-891-8332

Knoxville Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville TN 37921-5602
(865)594-6035/1-888-891-8332

Memphis Environmental Assistance Center
Perimeter Park
2510 Mt. Moriah Road, Suite E-645
Memphis TN 38115-1520
(901) 368-7939/1-888-891-8332

Nashville Environmental Assistance Center
711 R.S. Gass Boulevard
Nashville TN 37243
615-687-7000/1-888-891-8332

Copies are available for review also at the Division of Radiological Health, Central Office:

Division of Radiological Health
L&C Annex, Third Floor
401 Church Street
Nashville TN 37243-1532
615-532-0364

The "Draft" rules may be accessed for review also at the Department's World Wide Website located at <http://www.state.tn.us/environmental/rad>.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on the 30th day of November, 2004. (11-24)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF RADIOLOGICAL HEALTH

There will be a hearing before the Tennessee Department of Environment and Conservation to consider the promulgation of amendments pursuant to T.C.A. 68-202-101 et seq. and 68-202-201 et seq. 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 17th Floor Conference Room of the L & C Tower located at 401 Church Street, Nashville, Tennessee, at 10:00 a.m. (CST), on the 20th day of January, 2005.

Individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone or other means and should be made no less than ten (10) days prior to January 20, 2005, or ten (10) days prior to the date such party intends to review such filings, to allow time for the Department to determine how it may reasonably provide such aids or services. Contact the Tennessee Department of Environment and Conservation, John White, ADA Coordinator, L & C Annex, Seventh Floor; 401 Church Street, Nashville, TN 37243-0437; (615) 532-0207. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of this notice of rulemaking hearing, contact: Barbara A. Davis; Division of Radiological Health, L & C Annex, Third Floor; 401 Church Street; Nashville, TN 37243-1532, 615-532-0364.

AMENDMENTS

The first sentence of paragraph (1) of Rule 1200-2-8-.03 Definitions is amended by adding the words " or registrant" before the words "for its employees", so that as amended the sentence shall read:

Annual refresher safety training means a review conducted or provided by the licensee or registrant for its employees on radiation safety aspects of industrial radiography.

Paragraph 10 of Rule 1200-2-8-.03 Definitions is amended by adding the words “ or registered” after the word “licensed”, so that as amended the paragraph shall read:

Field station means a facility where licensed or registered material may be stored or used and from which equipment is dispatched.

Paragraph (17) of Rule 1200-2-8-.03 Definitions is amended by deleting the words “sealed source or sources” and substituting the words “radiographic exposure devices” and by adding the words “ or registrant” after the word “licensee” and the words “or registration” after the word “license”, so that as amended the paragraph shall read:

‘Radiographer’ means any individual who performs or who, in attendance at the site where the radiographic exposure devices are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of the Division’s regulations and the conditions of the license or registration.

Paragraph 20 of Rule 1200-2-8-.03 Definitions is amended by deleting the paragraph in its entirety and substituting the following, so that as amended the paragraph shall read:

Radiographic exposure device (also called a *camera* or a *projector*) means:

- (a) Any instrument having a sealed source in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure; or
- (b) Any apparatus that may produce, when the associated controls are operated, one or more forms of radiation used for making a radiographic exposure.

Paragraph 21 of Rule 1200-2-8-.03 Definitions is amended by deleting the words “radioactive sources” and substituting the words “sources of radiation”, so that as amended the paragraph shall read:

Radiographic operations means all activities associated with the presence of sources of radiation in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment and any activity inside restricted area boundaries.

Paragraph 29 of Rule 1200-2-8-.03 Definitions is amended by adding the words “ or registered” after the word “licensed”, so that as amended the paragraph shall read:

Temporary job site means a location where industrial radiography is performed and where licensed or registered material may be stored other than the location(s) listed in the specific license or registration.

Authority: T.C.A. §§4-5-201 et seq., 68-202-203 and 68-202-206.

Subparagraph (2)(a) of Rule 1200-2-8-.04 Equipment Control is deleted in its entirety and the following is substituted, so that as amended the subparagraph shall read:

Each radiographic exposure device shall have a lock or outer locked container designed to prevent unauthorized or accidental production of radiation or removal of a sealed source from its shielded position. Each source of radiation or storage container shall be kept locked (and if a keyed-lock, with the key removed at all times) when not under the direct surveillance of a radiographer or a radiographer’s assistant

except at permanent radiographic installations as stated in paragraph 1200-2-8-.06(1). In addition, during radiographic operations a sealed source assembly shall be secured in the shielded position each time the source is returned to that position.

The first sentence of subparagraph (4)(a) of Rule 1200-2-8-.04 Equipment Control is amended by deleting the words “radioactive material is” and substituting the words “sources of radiation are”, so that as amended the sentence shall read:

The licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments at each location where sources of radiation are present to make physical radiation surveys as required by this chapter and Chapter 1200-2-5 of these regulations.

Subparagraph (4)(c) of Rule 1200-2-8-.04 Equipment Control is amended by adding the words “ or registrant” after the word “license”, so that as amended the subparagraph shall read:

In accordance with Rule 1200-2-8-.15, the licensee or registrant shall maintain records of calibrations, dates and results thereof for inspection by the Division for three (3) years after the date of calibration.

Part (5)(c)3. of Rule 1200-2-8-.04 Equipment Control is deleted in its entirety.

The last sentence of paragraph (6) of Rule 1200-2-8-.04 Equipment Control is amended by deleting the word “its” and substituting the word “each”, so that as amended the sentence shall read:

Each sealed source and each radiographic exposure device shall be identified by serial number.

Subparagraph (7)(a) of Rule 1200-2-8-.04 Equipment Control is amended by adding the words “, at the address specified in the license or registration, current” after the word “maintain”, so that as amended the subparagraph shall read:

Each licensee or registrant shall maintain, at the address specified in the license or registration, current utilization logs showing for each source of radiation the following information:

Paragraph (10) of Rule 1200-2-8-.04 Equipment Control is amended by deleting the words “radiography equipment” and substituting the words “sealed source radiographic exposure devices and associated equipment”, so that as amended the paragraph shall read:

Performance requirements for sealed source radiographic exposure devices and associated equipment. Equipment utilizing radioactive material used in industrial radiographic operations shall meet the following minimum criteria:

Authority: *T.C.A. §§4-5-201 et seq., 68-202-203 and 68-202-206.*

Paragraph (11) of rule 1200-2-8-.04 Equipment Control is amended by adding the words “of sealed source radiographic devices and associated equipment”, so that as amended the paragraph shall read:

Labeling, storage and transportation of sealed source radiographic devices and associated equipment.

Subparagraph (1)(c) of Rule 1200-2-8-.05 Personal Radiation Safety Requirements for Radiographers and Radiographer’s Assistants is amended by adding the words “or registrant” after the word “licensee”, so that as amended the subparagraph shall read:

Each licensee or registrant shall maintain the following records of training and certification for three (3) years after the record is made for inspection by the Division.

Subparagraph (4)(c) of Rule 1200-2-8-.05 Personal Radiation Safety Requirements for Radiographers and Radiographer's Assistants is deleted in its entirety.

The last sentence of paragraph (5) of Rule 1200-2-8-.05 Personal Radiation Safety Requirements for Radiographers and Radiographer's Assistants is amended by adding the words "or registrant's" after the word "licensee's", so that as amended the sentence shall read:

The RSO shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's or registrant's program.

Authority: T.C.A. §§4-5-201 et seq., 68-202-203 and 68-202-206.

Paragraph (3) of Rule 1200-2-8-.12 Reporting Requirements is amended by deleting the word "radiography" and substituting the words "radiographic exposure devices or associated", so that as amended the paragraph shall read:

Reports of overexposure submitted under Chapter 1200-2-5 that involve failure of safety components of radiographic exposure devices or associated equipment shall also include the information specified in (2) of this rule.

Authority: T.C.A. §§4-5-201 et seq., 68-202-203 and 68-202-206.

Rule 1200-2-8-.15 Recordkeeping Requirements is deleted in its entirety and the following is substituted, so that as amended the rule shall read:

1200-2-8-.15 RECORDKEEPING REQUIREMENTS.

- (1) Location of documents and records.
 - (a) Each licensee and registrant shall maintain copies of records required by this rule and other applicable parts of this chapter at the location specified in the license.
 - (b) Each licensee and registrant shall also maintain copies of the following documents and records sufficient to demonstrate compliance at each applicable field station and each temporary jobsite;
 1. The license or registration authorizing the use of licensed material or registered equipment;
 2. A copy of "State Regulations for Protection Against Radiation";
 3. Utilization records for each radiographic exposure device dispatched from that location as required by paragraph 1200-2-8-.04(7).
 4. Records of equipment problems identified in daily checks of equipment as required by paragraph 1200-2-8-.04(8). The licensee or registrant shall maintain each record for three (3) years after it is made. The record shall include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was done.

5. Records of alarm system and entrance control checks required by paragraph 1200-2-8-.04(9), if applicable. The licensee or registrant shall maintain each record for three (3) years after it is made.
6. Records of direct reading dosimeters such as pocket dosimeter and/or electronic personal dosimeters readings as required by paragraph 1200-2-8-.05(3). The licensee or registrant shall maintain each record for three (3) years after it is made.
7. Records of dosimetry reports received from the accredited NVLAP personnel dosimeter processor as required by paragraph 1200-2-8-.05(3). The licensee or registrant shall maintain each record until the Division terminates the license or registration.
8. Operating and emergency procedures required by paragraph 1200-2-8-.05(2). The licensee or registrant shall maintain a copy of current operating and emergency procedures until the Division terminates the license or registration. Superseded material shall be retained for three (3) years after the change is made.
9. Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by paragraph 1200-2-8-.04(4). The licensee or registrant shall maintain each record for three (3) years after it is made.
10. Evidence of the latest calibrations of alarm ratemeters and operability checks of pocket dosimeters and/or electronic personal dosimeters as required by paragraph 1200-2-8-.05(3). The licensee or registrant shall maintain each record for three (3) years after it is made.
11. Latest survey records required by paragraph 1200-2-8-.06(4). The licensee or registrant shall maintain the record of each exposure device survey conducted before the device is placed in storage, if that survey is the last one performed in the workday, for three (3) years after it is made.
12. The shipping papers for the transportation of radioactive materials required by Chapter 1200-2-10; and
13. When operating under reciprocity pursuant to Rule 1200-2-10-.29, a copy of the Agreement State license authorizing the use of licensed materials.
14. Records of estimates of exposures because of off-scale personal direct reading dosimeters or of lost or damaged personnel dosimeters until the Division terminates the license or registration.

Authority: T.C.A. §§4-5-201 et seq. and 68-202-203 and 206.

OTHER INFORMATION

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Barbara A. Davis at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive such written comments in its Central Office by 4:30 p.m. (CST), February 17, 2005, in order to assure consideration.

Copies of draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Chattanooga Environmental Assistance Center
State Office Building
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402-2013
(423) 634-5745 / 1-888-891-8332

Knoxville Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville, TN 37921-5602
(865) 594-6035 / 1-888-891-8332

Memphis Environmental Assistance Center
Perimeter Park
2510 Mt Moriah Road, Suite E-645
Memphis, TN 38115-1520
(901) 368-7939 / 1-888-891-8332

Nashville Environmental Assistance Center
711 R. S. Gass Boulevard
Nashville, TN 37243
(615) 687-7000 / 1-888-891-8332

Copies are available for review also at the Division of Radiological Health, Central Office:

Division of Radiological Health
L & C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532
(615)532-0364

The "DRAFT" rules may be accessed for review also at the Department's World Wide Web Site located at <http://www.state.tn.us/environment/new.htm>

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of November, 2004. (11-25)

**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 Tennessee Room on the Ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 9:00 a.m. (CST) on the 20th day of January, 2005.

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**

**CHAPTER 1200-8-10
STANDARDS FOR AMBULATORY SURGICAL TREATMENT CENTERS**

AMENDMENTS

Rule 1200-8-1-.01, Definitions, is amended by adding the following language as one (1), new, appropriately numbered paragraph:

- () Surgical Technologist. A person currently holding a national certification by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or has completed a program for surgical technologists by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or, has completed an appropriate training program for surgical technologists in the armed forces; or successfully completed the LCC-ST certifying exam; or provides sufficient evidence that prior to July 1, 2006, the person began training or was at any time employed as a surgical technologist for not less than eighteen (18) months in a hospital, medical office, surgery center or school.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-255.

Rule 1200-8-1-.07, Optional Hospital Services, is amended by adding the following language as new subparagraphs (1)(h) and (1)(i) and re-numbering the remaining subparagraphs appropriately, so that as amended, the new subparagraphs (1)(h) and (1)(i) shall read:

- (1) (h) Surgical technologists must:
1. Hold current national certification established by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or
 2. Have completed a program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or
 3. Have completed an appropriate training program for surgical technologists in the armed forces or at a CAAHEP accredited hospital or CAAHEP accredited ambulatory surgical treatment center; or
 4. Successfully complete the surgical technologists LCC-ST certifying exam; or
 5. Provide sufficient evidence that, prior to July 1, 2006, the person began training to be a surgical technologist, or was at any time employed as a surgical technologist for not less than eighteen (18) months in a hospital, medical office, surgery center, or school.
- (1) (i) A hospital can petition the director of health care facilities of the department for a waiver from the provisions of 1200-8-1-.07(1)(h) if they are unable to employ a sufficient number of surgical technologists who meet the requirements. The facility shall demonstrate to the director that a diligent and thorough effort has been made to employ surgical technologist who meet the requirements. The director shall refuse to grant a waiver upon finding that a diligent and thorough effort has not been made. A waiver shall exempt a facility from meeting the requirements for not more than six (6) months. Additional waivers may be granted, but all exemptions greater than twelve (12) months shall be approved by the Board for Licensing Health Care Facilities.

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

Rule 1200-8-10-.01, Definitions, is amended by adding the following language as one (1), new, appropriately numbered paragraph:

- () Surgical Technologist. A person currently holding a national certification by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or has completed a program for surgical technologists by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or, has completed an appropriate training program for surgical technologists in the armed forces; or successfully completed the LCC-ST certifying exam; or provides sufficient evidence that prior to July 1, 2006, the person began training or was at any time employed as a surgical technologist for not less than eighteen (18) months in a hospital, medical office, surgery center or school.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.06, Basic Services, is amended by adding the following language as new subparagraphs (1)(j) and (1)(k) and re-numbering the remaining subparagraphs appropriately, so that as amended, the new subparagraphs (1)(j) and (1)(k) shall read:

- (1) (j) Surgical technologists must:
 - 1. Hold current national certification established by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or
 - 2. Have completed a program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or
 - 3. Have completed an appropriate training program for surgical technologists in the armed forces or at a CAAHEP accredited hospital or CAAHEP accredited ambulatory surgical treatment center; or
 - 4. Successfully complete the surgical technologists LCC-ST certifying exam; or
 - 5. Provide sufficient evidence that, prior to July 1, 2006, the person began training to be a surgical technologist, or was at any time employed as a surgical technologist for not less than eighteen (18) months in a hospital, medical office, surgery center, or school.

- (1) (k) An ASTC can petition the director of health care facilities of the department for a waiver from the provisions of 1200-8-10-.06(1)(j) if they are unable to employ a sufficient number of surgical technologists who meet the requirements. The facility shall demonstrate to the director that a diligent and thorough effort has been made to employ surgical technologist who meet the requirements. The director shall refuse to grant a waiver upon finding that a diligent and thorough effort has not been made. A waiver shall exempt a facility from meeting the requirements for not more than six (6) months. Additional waivers may be granted, but all exemptions greater than twelve (12) months shall be approved by the Board for Licensing Health Care Facilities.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of November, 2004. (11-04)

**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 amendments to chapters 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 Cumberland Room on the Ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 9:00 a.m. (CST) on the 21st day of January, 2005. 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

Amendments

Chapters 1200-8-1, 1200-8-2, 1200-8-6, 1200-8-10, 1200-8-11, 1200-8-15, 1200-8-17, 1200-8-22, 1200-8-23, 1200-8-24, 1200-8-25, 1200-8-26, 1200-8-27, 1200-8-28, 1200-8-32, and 1200-8-34 are amended by adding the following forms as Appendix I to each of these chapters:

Appendix I

- (1) Physician Orders for Scope of Treatment (POST) Form

	Physician Name (Print)	Physician Phone	Office Use Only
	Physician Signature (Mandatory)	Date	

COPY OF FORM SHALL ACCOMPANY PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED

Review of POST

This form should be reviewed if:

- ◆ The patient/resident is transferred from one care setting to another, or
- ◆ There is substantial change in patient/resident health status, or
- ◆ The patient/resident treatment preferences change.

If this form is to be voided, write the word "VOID" in large letters on the front of the form. After voiding the form, a new form may be completed. If no new form is completed, full treatment and resuscitation may be provided.

Section F	Patient/Resident (Parent for Minor Child) Preferences as a Guide for this POST Form				
	Advance Directive (Living Will or Health Care Agent)* <input type="checkbox"/> NO <input type="checkbox"/> YES – Attach copy Organ and Tissue Document of Gift <input type="checkbox"/> NO <input type="checkbox"/> YES – Attach copy of documentation Court-appointed Guardian* <input type="checkbox"/> NO <input type="checkbox"/> YES – Attach copy of documentation Health Care Surrogate Selection* <input type="checkbox"/> NO <input type="checkbox"/> YES – Attach copy of documentation				
	*Name: _____ Phone Contact: _____				
	<input type="checkbox"/> If I lose decision-making capacity, I authorize my health care agent/health care surrogate to make all medical decisions for me, including those regarding CPR and other life-sustaining treatment, and to complete a new form (check indicates patient acceptance).				
Signature of Patient/Resident, Parent of Minor, or Guardian/Health Care Agent/Surrogate (Mandatory)					
Signature of Person Preparing Form			Preparer Name (Print)	Date Prepared	
Section G	Review of this POST Form				
	Date of Review	Reviewer	Physician Signature	Location of Review	Outcome of Review
					<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
					<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form	

					<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
					<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form

COPY OF FORM SHALL ACCOMPANY PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED.

DO NOT ALTER THIS FORM !

(2) Advance Care Plan Form

ADVANCE CARE PLAN

Instructions: Competent adults and emancipated minors may give advance instructions using this form or any form of their own choosing. To be legally binding, the Advance Care Plan must be signed and either witnessed or notarized.

I, _____, hereby give these advance instructions on how I want to be treated by my doctors and other health care providers when I can no longer make those treatment decisions myself.

Agent: (You do not have to fill in this section if you do not want to.) I want the following person to make health care decisions for me:

Name: _____ Phone #: _____ Relation: _____
 Address: _____

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate:

Name: _____ Phone #: _____ Relation: _____
 Address: _____

Quality of Life: (You do not have to fill in this section if you do not want to.) I want my doctors to help me maintain an acceptable quality of life including adequate pain management. A quality of life that is unacceptable to me means when I have any of the following conditions (you can check as many of these items as you want):

- Permanent Unconscious Condition: I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
- Permanent Confusion: I become unable to remember, understand or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.
- Dependent in all Activities of Daily Living: I am no longer able to talk clearly or move by myself. I depend on others for feeding, bathing, dressing and walking. Rehabilitation or any other restorative treatment will not help.
- End-Stage Illnesses: I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that does not respond anymore to treatment; chronic and/or damaged heart and lungs, where oxygen needed most of the time and activities are limited due to the feeling of suffocation.

Treatment: (You do not have to fill in this section if you do not want to.) If my quality of life becomes unacceptable to me and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be

provided as follows. Checking "yes" means I WANT the treatment. Checking "no" means I DO NOT want the treatment.

<input type="checkbox"/>	<input type="checkbox"/>	<u>CPR (Cardiopulmonary Resuscitation):</u> To make the heart beat again and restore breathing after it has stopped. Usually this involves electric shock, chest compressions, and breathing assistance.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<u>Life Support / Other Artificial Support:</u> Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys and other organs to continue to work.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<u>Treatment of New Conditions:</u> Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<u>Tube feeding/IV fluids:</u> Use of tubes to deliver food and water to patient's stomach or use of IV fluids into a vein which would include artificially delivered nutrition and hydration.
Yes	No	

Other instructions, such as burial arrangements, hospice care, etc.: _____

(Attach additional pages if necessary)

After my death (please mark one): I do wish to donate my organs/tissues for the benefit of others.
 List: _____
 I do not wish to donate my organs/tissues for the benefit of others.

SIGNATURE

Your signature should either be witnessed by two competent adults or notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: _____ DATE: _____
 (Patient)

Witnesses:

1. I am a competent adult who is not named as the agent. I witnessed the patient's signature on this form. _____
 Signature of witness number 1

2. I am a competent adult who is not named as the agent. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form. _____
 Signature of witness number 2

This document may be notarized instead of witnessed:



STATE OF TENNESSEE
 COUNTY OF _____

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The

person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: _____ Signature of Notary Public _____

WHAT TO DO WITH THIS ADVANCE DIRECTIVE

- Provide a copy to your physician(s)
- Keep a copy in your personal files where it is accessible to others
- Tell your closest relatives and friends what is in the document
- Provide a copy to the person(s) you named as your health care agent

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1705.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of November, 2004. (11-22)

**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 Tennessee Room on the Ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 10:30 a.m. (CST) on the 20th day of January, 2005.

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**

**CHAPTER 1200-8-10
STANDARDS FOR AMBULATORY SURGICAL TREATMENT CENTERS**

**CHAPTER 1200-8-11
STANDARDS FOR HOMES FOR THE AGED**

**CHAPTER 1200-8-15
STANDARDS FOR RESIDENTIAL HOSPICES**

**CHAPTER 1200-8-17
ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL REHABILITATION TREATMENT
FACILITIES**

**CHAPTER 1200-8-18
ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL TREATMENT FACILITIES**

**CHAPTER 1200-8-19
ALCOHOL AND OTHER DRUGS OF ABUSE DUI SCHOOL FACILITIES**

**CHAPTER 1200-8-20
ALCOHOL AND OTHER DRUGS OF ABUSE PREVENTION PROGRAM FACILITIES**

**CHAPTER 1200-8-21
ALCOHOL AND OTHER DRUGS OF ABUSE NON-RESIDENTIAL NARCOTIC
TREATMENT FACILITIES**

**CHAPTER 1200-8-22
ALCOHOL AND OTHER DRUGS OF ABUSE HALFWAY HOUSE TREATMENT FACILITIES**

**CHAPTER 1200-8-23
ALCOHOL AND OTHER DRUGS OF ABUSE RESIDENTIAL DETOXIFICATION TREATMENT
FACILITIES**

**CHAPTER 1200-8-24
STANDARDS FOR BIRTHING CENTERS**

**CHAPTER 1200-8-25
STANDARDS FOR ASSISTED-CARE LIVING FACILITIES**

**CHAPTER 1200-8-26
STANDARDS FOR HOMECARE ORGANIZATIONS PROVIDING HOME HEALTH SERVICES**

**CHAPTER 1200-8-27
STANDARDS FOR HOMECARE ORGANIZATIONS PROVIDING HOSPICE SERVICES**

**CHAPTER 1200-8-28
STANDARDS FOR HIV SUPPORTIVE LIVING FACILITIES**

**CHAPTER 1200-8-29
STANDARDS FOR HOMECARE ORGANIZATIONS PROVIDING HOME MEDICAL EQUIPMENT**

**CHAPTER 1200-8-32
STANDARDS FOR END STAGE RENAL DIALYSIS CLINICS**

AMENDMENTS

Rule 1200-8-1-.04, Administration, is amended by adding the following language as new paragraph (10), so that as amended, the new paragraph (10) shall read:

- (10) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.04, Administration, is amended by adding the following language as new paragraph (24), so that as amended, the new paragraph (24) shall read:

- (24) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-11-.04, Administration, is amended by adding the following language as new paragraph (7), so that as amended, the new paragraph (7) shall read:

- (7) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-11-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (11), so that as amended, the new paragraph (11) shall read:

- (11) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-210.

Rule 1200-8-15-.04, Administration, is amended by adding the following language as new paragraph (18), so that as amended, the new paragraph (18) shall read:

- (18) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-15-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (18), so that as amended, the new paragraph (18) shall read:

- (18) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-17-.04, Administration, is amended by adding the following language as new paragraph (7), so that as amended, the new paragraph (7) shall read:

- (7) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-17-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (3), so that as amended, the new paragraph (3) shall read:

- (3) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-18-.04, Administration, is amended by adding the following language as new paragraph (7), so that as amended, the new paragraph (7) shall read:

- (7) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-19-.04, Administration, is amended by adding the following language as new paragraph (6), so that as amended, the new paragraph (6) shall read:

- (6) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-20-.04, Administration, is amended by adding the following language as new paragraph (6), so that as amended, the new paragraph (6) shall read:

- (6) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-21-.04, Administration, is amended by adding the following language as new paragraph (6), so that as amended, the new paragraph (6) shall read:

- (6) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

- (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202 through 4-5-206, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-222.

Rule 1200-8-22-.04, Administration, is amended by adding the following language as new paragraph (7), so that as amended, the new paragraph (7) shall read:

- (7) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-22-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (3), so that as amended, the new paragraph (3) shall read:

- (3) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-23-.04, Administration, is amended by adding the following language as new paragraph (7), so that as amended, the new paragraph (7) shall read:

- (7) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

- (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202 through 4-5-206, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-23-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (3), so that as amended, the new paragraph (3) shall read:

- (3) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-24-.04, Administration, is amended by adding the following language as new paragraph (11), so that as amended, the new paragraph (11) shall read:

- (11) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-25-.04, Administration, is amended by adding the following language as new paragraph (8), so that as amended, the new paragraph (8) shall read:

- (8) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

- (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-25-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (13), so that as amended, the new paragraph (13) shall read:

- (13) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-26-.04, Administration, is amended by adding the following language as new paragraph (20), so that as amended, the new paragraph (20) shall read:

- (20) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-27-.04, Administration, is amended by adding the following language as new paragraph (22), so that as amended, the new paragraph (22) shall read:

- (22) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
 - (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-28-.04, Administration, is amended by adding the following language as new paragraph (18), so that as amended, the new paragraph (18) shall read:

- (18) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-28-.05, Admissions, Discharges and Transfers, is amended by adding the following language as new paragraph (18), so that as amended, the new paragraph (18) shall read:

- (18) Any residential facility licensed by the board of licensing health care facilities shall upon admission provide to each resident the division of adult protective services' statewide toll-free number: 888-277-8366.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206 and 68-11-209.

Rule 1200-8-29-.04, Administration, is amended by adding the following language as new paragraph (6), so that as amended, the new paragraph (6) shall read:

- (6) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-222.

Rule 1200-8-32-.04, Administration, is amended by adding the following language as new paragraph (17), so that as amended, the new paragraph (17) shall read:

- (17) All health care facilities licensed pursuant to T.C.A. § 68-11-201 shall post the following in the main public entrance:
- (a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;
 - (b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation.

Postings shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of November, 2004. (11-03)

**THE 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 new 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 Tennessee room on the ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 1:00 p.m. (CST) on the 20th day of January, 2005.

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.

SUMMARY OF PROPOSED RULES

CHAPTER 1200-8-35 STANDARDS FOR OUTPATIENT DIAGNOSTIC CENTERS

Public Acts 2004, Chapter 917, Senate Bill 2842, House Bill 3449 (T.C.A. §§68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, 68-11-213 and 68-11-216) requires that outpatient diagnostic centers be licensed and regulated by the Department of Health.

NEW RULES

TABLE OF CONTENTS

1200-8-35-.01	Definitions	1200-8-35-.09	Life Safety
1200-8-35-.02	Licensing Procedures	1200-8-35-.10	Infectious and Hazardous Waste
1200-8-35-.03	Disciplinary Procedures	1200-8-35-.11	Records and Reports
1200-8-35-.04	Administration	1200-8-35-.12	Patient Rights
1200-8-35-.05	Admissions, Discharges, and Transfers	1200-8-35-.13	Procedures for the Withholding of Resuscitative Services
1200-8-35-.06	Basic Services	1200-8-35-.14	Disaster Preparedness
1200-8-35-.07	Reserved		
1200-8-35-.08	Building Standards		

Rule 1200-8-35-.01 Definitions—This rule list seventy-five (75) words with their definitions.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.02 Licensing Procedures—This rule requires all outpatient diagnostic centers to be licensed and explains the application process. Also, change of ownership, including a change in a controlling interest, must be reported and the circumstances constituting a change of ownership are explained in the rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-216.

Rule 1200-8-35-.03 Disciplinary Procedures—This rule explains the reasons for suspension or revocation of a facility's license and factors used in determining sanctions. Also, the requirement of a plan of correction for deficiencies cited in the facility is explained and the procedure to follow if the facility desires to aggrieve the decision or action taken by the department.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, and 68-11-209.

Rule 1200-8-35-.04 Administration—This rule explains the following requirements: governing body, personnel files, policies and procedures, civil rights, adequate staffing, licensed physician, staff education programs and training sessions, contract services, and adult protective services.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 8-35-.05 Admissions, Discharges, and Transfers—This rule explains the requirements for admission, discharge, and transfer of patients at their facility.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-210.

Rule 1200-8-35-.06 Basic Services—This rule lists the requirements for the following: Radiological services, Invasive procedures, Anesthesia, Pharmaceutical services, Environmental services, Medical records, Infection Control, Performance Improvement, Ancillary services, Laboratory services, and Food and Dietetic services.

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

Rule 1200-8-35-.07 Reserved.

Rule 1200-8-35-.08 Building Standards—This rule lists the code manuals required for new construction and renovations and the construction plan review process requirements. Also, the requirements for submission of the following drawings and specifications: architectural, structural, mechanical, and electrical.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.09 Life Safety—This rule requires the facilities to adopt a written fire control plan, provide fire protection by the elimination of fire hazards, and by installation of necessary fire fighting equipment.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.10 Infectious and Hazardous Waste—This rule requires each outpatient diagnostic center to develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous wastes. This rule defines types of infectious waste and the requirements for packaging, storage, and disposal of infectious and hazardous waste.

Authority: T.C.A. §§4-5-202 thru 4-5-206, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.11 Records and Reports—This rule requires the outpatient diagnostic centers to report patients who have cancer or pre-cancerous or tumorous diseases, each case of communicable disease, and unusual incidents to the Department. Unusual incidents to report to the Department are listed in this rule. The centers are to file a joint annual report to the Department. Also, a list of records and reports to retain in the facility for thirty-six (36) months are listed in this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.12 Patient Rights—This rule lists the rights of each patient.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Rule 1200-8-35-.13 Procedures for the Withholding of Resuscitative Services—This rule lists the requirements of procedures for the withholding of resuscitative services.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-224.

Rule 1200-8-35-.14 Disaster Preparedness—This rule requires the administration of every facility to have the following written disaster plans and exercised annually: fire safety procedures, tornado/severe weather procedures, floods procedures, and earthquake disaster procedures.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Steve Goodwin, Health Facility Regulations Manager, Division of Health Care Facilities, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-0508, (615)-741-7598.

The notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of November, 2004. (11-17)

**TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240
ADMINISTRATIVE SERVICES DIVISION**

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 71-1-105(12). 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 2nd Floor Conference Room, Citizen's Plaza Building 400 Deaderick Street, Nashville, Tennessee 37248 at 1:30PM Central Time on January 18, 2005.

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

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUBSTANCE OF PROPOSED RULES

**THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE SERVICES DIVISION**

CHAPTER 1240-9-1

ACCESS TO PUBLIC RECORDS OF THE DEPARTMENT OF HUMAN SERVICES

AMENDMENTS

Rule 1240-2-9-.05, Fees and Costs for Reproduction of Records, is amended by re-numbering the existing paragraph (6) as paragraph (8) and by adding the following new paragraphs (6) and (7), so that paragraphs (6) and (7) shall read as follows:

- (6) Audio recordings shall be charged at a minimum of Three Dollars (\$3.00) per one-sided tape and Four Dollars (\$4.00) for a two-sided tape, if this media is available.
- (7) Video recordings shall be charged at a minimum of Six Dollars and Fifty Cents (\$6.50) per videotape, if this media is available.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105; 10-7-503 and 10-7-506;

Rule 1240-2-9-.05, Fees and Costs for Reproduction of Records, is amended by deleting in its entirety part 1, subparagraph (a), of existing paragraph (6) [new paragraph (8) as amended above], and by substituting instead the following new language so that, as amended, part 1 shall read as follows:

1. Staff time utilized in locating, gathering, and copying the record;

Authority: T.C.A. §§4-5-201 et seq., 71-1-105; 10-7-503 and 10-7-506;

Rule 1240-2-9-.05, Fees and Costs for Reproduction of Records, is amended by deleting in its entirety subparagraph (d), of existing paragraph (6) [new paragraph (8) as amended above], and by substituting instead the following new language so that, as amended, subparagraph (d) shall read as follows:

- (d) Any other costs associated with actually reproducing the requested records, except for those out-of-pocket costs or staff time associated with reviewing for redacted or confidential information in the records.

Authority: T.C.A. §§4-5-201 et seq., 71-1-105; 10-7-503 and 10-7-506;

The Notice of Rulemaking set out herein was properly filed in the Department of State on the 15th day of November, 2004. (11-10)

THE TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 21st day of January, 2005.

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

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

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

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 0870-1-.12, Continuing Education, is amended by adding the following language as new subparagraphs (2) (b) and (2) (c) and renumbering the remaining subparagraphs accordingly:

- (2) (b) Two (2) hours of the twenty-five (25) hour requirement shall pertain to federal and Tennessee statutes and rules concerning massage therapists and establishments.

- (2) (c) Two (2) hours of the twenty-five (25) hour requirement shall pertain to the management of practicing massage therapy, or to professional ethics, or to substance abuse.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 8th day of November, 2004. (11-07)

BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-207, 63-6-224, and 63-6-237. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Room of the Cordell Hull Building located at 425 5th Avenue North, Nashville, TN at 8:45 a.m. (CST) on the 18th day of January, 2005.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0880-2-.08 Examination, is amended by deleting subparagraph (2) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (a) shall read:

- (2) (a) The Board adopts the NBME's and the USMLE's determination of the passing scores for each Part or Step of their examinations. When an applicant fails to attain the passing score on any Part or Step of either the NBME or the USMLE and subsequently retakes that Part or Step, the passing score for each retake will be the NBME's and the USMLE's recommended minimum passing two-digit score plus one (1) additional point for each time that the Part or Step is retaken. It is the intent of this rule that the passing two-digit score be increased cumulatively according to the number of times the applicant had to retake the Part or Step (Example - If an applicant has to retake a Part or a Step three (3) times due to failure of that Part or Step the passing score for that applicant for that Part or Step would be the NBME's and the USMLE's recommended minimum passing two-digit score plus three (3) additional points).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-207.

Rule 0880-9-.08 Radiologist Assistant Scope of Practice and Role Delineation, is amended by adding the following language as new paragraph (4) and renumbering the present paragraphs (4) through (7) as paragraphs (5) through (8):

- (4) The use of conscious sedation / moderate sedation requires the physical presence of the supervising radiologist or an anesthesiologist or a certified registered nurse anesthetist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-6-224, and 63-6-237.

The notice of rulemaking set out herein was properly filed in the Department of State on the 17th day of November, 2004. (11-13)

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 20th day of January, 2005.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1020-1-.01, Definitions, is amended by relocating and renumbering paragraphs (19) and (20) as appropriately alphabetized and numbered paragraphs.

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

Rule 1020-1-.06, Preceptors, Administrators-In-Training and Administrator-In-Training Programs, is amended by deleting part (3) (b) 3. in its entirety and substituting instead the following language, so that as amended, the new part (3) (b) 3. shall read:

- (3) (b) 3. The preceptor and the A.I.T. shall spend a minimum of four (4) hours per week face-to-face in an approved facility for orientation, direct instruction, planning and evaluation.

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

Rule 1020-1-.13, Licensure Retirement and Reactivation, is amended by deleting subparagraph (2) (c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (c) shall read:

- (2) (c) Continuing education requirements for reactivation
2. A licensee who applies for reactivation of a retired license after the expiration of five (5) years from the date of retirement must submit, along with the reactivation request, certification of attendance and completion of at least fifty (50) clock hours of Board approved continuing education as a prerequisite to licensure reactivation.
 3. If licensed and actively practicing in another state reactivation may be accomplished by endorsement. The required hours must have been begun and completed within the twelve (12) months immediately preceding the date of reactivation.
 3. If licensed and actively practicing in another state reactivation may be accomplished by endorsement. The required hours must have been begun and completed within the twelve (12) months immediately preceding the date of reactivation.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 2nd day of November, 2004. (11-02)

BOARD OF EXAMINERS IN PSYCHOLOGY - 1180

There will be a hearing before the Tennessee Board of Examiners in Psychology to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-11-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 1st day of March, 2005.

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

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

SUBSTANCE OF PROPOSED RULE**AMENDMENT**

Rule 1180-2-.02, Qualifications for Licensure, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) The internship requirements shall be met in one (1) of three (3) ways:
1. An internship program approved by the Committee on Accreditation of the APA; or
 2. An internship program developed and administered by an internship center with membership in the APPIC; or
 3. An internship program approved by the Board whose standards exceed or are substantially the same as the provisions of subparagraph (a).

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of November, 2004. (11-18)

TREASURY DEPARTMENT - 1700

There will be a hearing before the Department of Treasury to consider the promulgation of rules pursuant to Tennessee Code Annotated, Section 65-5-213. 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 Room 29 of the Legislative Plaza, Nashville, Tennessee 37243 at 1:00 p.m. (Central Time) on the 17th day of January, 2005.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Treasury to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Department of Treasury to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Treasury's ADA Coordinator at the State Treasurer's Office, First Floor, Tennessee State Capitol, Nashville, Tennessee 37243, (615) 741-2956.

For a copy of this notice of rulemaking hearing, contact: Mary Krause, General Counsel, Tennessee Treasury Department; 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243; (615) 741-7063.

SUBSTANCE OF PROPOSED RULES

NEW RULES

CHAPTER 1700-6 SMALL AND MINORITY-OWNED BUSINESS ASSISTANCE PROGRAM

TABLE OF CONTENTS

1700-6-1-.01 In General	1700-6-1-.12 Criteria for Loans to Qualifying Businesses
1700-6-1-.02 Definitions	1700-6-1-.13 Conflicts of Interest
1700-6-1-.03 Administration of the Program	1700-6-1-.14 Loan Guarantee Program
1700-6-1-.04 Program Administrator	1700-6-1-.15 Loan Guarantee Committee
1700-6-1-.05 Allocation of Funds	1700-6-1-.16 Conflicts of Interest
1700-6-1-.06 Referral Preference	1700-6-1-.17 Criteria for Loan Guarantee
1700-6-1-.07 Accountability	1700-6-1-.18 Loan Documents
1700-6-1-.08 Authority Over Program Fund	1700-6-1-.19 Application and Application Review
1700-6-1-.09 Quality Assurance Committee	1700-6-1-.20 Monitoring Loan Guarantees
1700-6-1-.10 Loan Program	1700-6-1-.21 Program Services
1700-6-1-.11 Qualified Organization	

1700-6-1-.01 IN GENERAL.

- (1) Purpose. Chapter 830 of the Tennessee Public Acts of 2004 created within the Treasury Department the Small and Minority-Owned Business Assistance Program. By rule, the Department is to develop an assistance program for small and minority-owned businesses, as defined in §65-5-212, which may include loans and loan guarantees, technical assistance and services, and consulting and educational services. The Program is funded from the Small and Minority-Owned Business Assistance Program Fund. It is the legislative intent that the Department use the assistance provided by this program to support outreach to new, expanding, and existing businesses in Tennessee that do not have reasonable access to capital markets and traditional commercial lending facilities.

Authority: T.C.A. §§65-5-213, and 65-5-212.

1700-6-1-.02 DEFINITIONS. The following definitions shall apply to these rules:

- (1) “Act” means Chapter 830 of the Tennessee Public Acts of 2004.
- (2) “Applicant” means a Qualifying Business that has filed an Application for Program Assistance.
- (3) “Application” means the form required of an Applicant for Program Assistance, which requests a Loan, Loan Guarantee and/or Program Services.
- (4) “Department” means the Tennessee Treasury Department.
- (5) “Gross Receipts” means the annual total revenue exclusive of deductions.
- (6) “Ineligible Business” means a church, non-profit organization, insurance company, real estate contractor, real estate developer, night club and any similar entertainment-oriented business, a business that does not create or provide jobs, and a business not incorporated or located in Tennessee.
- (7) “Lender” means an institution duly qualified to do business in the state of Tennessee that is a national or state chartered bank, a savings and loan association, or a credit union which is subject to examination and supervision by an agency of the United States or the State of Tennessee.
- (8) “Loan” means a loan for a specific Project for which the Applicant has requested Program Assistance. The following shall be considered acceptable purposes for which a Loan may be made under the Loan Program or the Loan Guarantee Program: acquisition of machinery and equipment; working capital; supplies and materials; inventory; and other business-related activity as approved by the Program Administrator. Lending for the acquisition of real estate shall be excluded from the Program.
- (9) “Loan Documents” mean the documents evidencing the loan relationship between the Applicant and a Lender.
- (10) “Loan Guarantee” means the obligation of the Program to a Lender which guarantees the Loan on behalf of an Applicant.
- (11) “Loan Guarantee Committee” means the Loan Guarantee Committee appointed in accordance with Rule 1700-6-1-.15 below to evaluate Applications for Loan Guarantees.
- (12) “Minority-Owned Business” means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex, or national origin.
- (13) “Program” means the Small and Minority-Owned Business Assistance Program created by the Act. The Program includes the following components: Loans, Loan Guarantees, and Program Services.
- (14) “Program Administrator” means the organization selected pursuant to Rule 1700-6-1-.04 below to administer the Program.
- (15) “Program Assistance” means Loans, Loan Guarantees and Program Services as described in these Rules.

- (16) "Program Fund" means the Small and Minority-Owned Business Assistance Program Fund created by the Act.
- (17) "Program Services" mean services that include, but are not limited to, technical assistance, education and consulting services provided under the Program to Qualifying Businesses that may or may not be making Application for a Loan or Loan Guarantee. The Program Administrator shall be responsible for providing Program Services to Qualifying Businesses except that Program Services under the Loan Program shall be provided by the Qualified Organizations selected pursuant to Rule 1700-6-1-.11 below.
- (18) "Project" means the business activity as proposed by the Applicant in the Application and the approved purpose of the Loan or Loan Guarantee. Loan Guarantees and Loans will only be made on behalf of Applicants for Loans that initially finance a Project. The refinancing of any existing debt shall not be considered eligible for a Loan Guarantee or a Loan.
- (19) "Qualifying Business" means a sole proprietorship, a partnership, a limited liability partnership, a limited liability corporation, or any other incorporated entity which satisfies the following definitions under these Rules: is not an Ineligible Business; is either a Small Business or a Minority-Owned Business; is eligible to do business in Tennessee; and is located in and maintains operations in Tennessee at the time Program Services are requested and for the term that Program Services are provided. A material change in any of the foregoing qualifications may be cause for denial or revocation of any Program Assistance.
- (20) "Qualified Organization" means a non-profit organization whose central purpose is economic development. Such organizations specifically include, but are not limited to, organizations qualified as Community Development Entities by the United States Treasury Department and organizations licensed and regulated by the Federal Small Business Administration as a 301(d) Small Business Investment Company, also known as a Specialized Small Business Investment Company.
- (21) "Quality Assurance Committee" means the committee appointed in accordance Rule 1700-6-1-.09 below to evaluate and report on Program integrity.
- (22) "Reasonable Access" means, unless otherwise indicated, a Minority-Owned Business meeting the criteria of a Qualifying Business shall be considered not to have reasonable access to capital markets and traditional commercial lending facilities.
- (23) "Small Business" means a Qualifying Business with annual gross receipts of less than four million dollars (\$4,000,000).
- (24) "Treasurer" means the Tennessee State Treasurer.

Authority: *T.C.A. §§65-5-213, and 65-5-212.*

1700-6-1-.03 ADMINISTRATION OF THE PROGRAM.

- (1) In General. The Program shall be administered by a Program Administrator. The Program's general approach to each area of Program Assistance is as follows:
 - (a) Loan Guarantees. The Program Administrator will coordinate the marketing, origination, and servicing of Loan Guarantees, including the preparation of Applications for consideration by the Loan Guarantee Committee and monitoring of outstanding Loan Guarantees.

- (b) Loans. The Program will loan funds at below market rates to selected Qualified Organizations. Qualified Organizations shall be responsible for originating and servicing loans and providing needed Program Services to Qualifying Businesses.
- (c) Program Services. The Program Administrator will develop a network of service providers to support Qualifying Businesses seeking Program Assistance.

Authority: T.C.A. §65-5-213.

1700-6-1-.04 PROGRAM ADMINISTRATOR.

- (1) In General. The Program shall be administered by an organization selected through a competitive procurement process. The specific terms of administration shall be contained within a contract executed by the selected organization and the Department.
- (2) Selection. The procurement process shall be conducted in consultation with the Quality Assurance Committee and shall be based on the evaluation of proposals submitted. At a minimum, the organization selected shall have a demonstrated knowledge and experience of at least five years in providing and/or coordinating the types of program assistance to the Qualifying Businesses as envisioned under the Program.
- (3) General Duties. The general duties of the Program Administrator shall include, but shall not be limited to, the following:
 - (a) Loan Guarantee Program. The Program Administrator shall review Applications for Loan Guarantees and staff the Loan Guarantee Committee.
 - (b) Loan Program. The Program Administrator shall assist the Department with the selection of Qualified Organizations to whom Program Funds will be loaned for re-lending to Qualifying Businesses.
 - (c) Program Services. The Program Administrator shall coordinate the selection of entities to provide services to Qualifying Businesses.
 - (d) Marketing: The Program Administrator shall coordinate all marketing efforts of the Program. At the request of the Department of Economic and Community Development and the Governor's Office of Diversity Enterprise, the Program Administrator shall provide information relative to the Program.
- (4) Reporting. The Program Administrator shall provide such reports as required within the contract executed with the Department.

Authority: T.C.A. §65-5-213.

1700-6-1-.05 ALLOCATION OF FUNDS.

- (1) Intent. It is the intent that the Program be designed with consideration of fair distribution of program assistance. To effectuate this intent, the following allocations shall apply:

- (a) **Geographic Allocation.** Program Assistance is to be fairly distributed among the geographic divisions of the State, with a maximum of forty percent (40%) of such assistance allocated to any grand division. For purposes of this provision, loans to Qualified Organizations shall be included within the grand division where the Qualified Organization maintains its principal office.
- (b) **Program Assistance.**
 - 1. Loans: not more than 55% of fund resources.
 - 2. Loan Guarantees: not more than 35% of fund resources.
 - 3. Program Services: not more than 10 % of fund resources.
 - 4. Administration: not more than 5% of fund resources.
- (c) **Start-up Businesses.** No more than 10% of program resources shall be allocated to Qualifying Businesses that have been in operation for less than one year.

Authority: T.C.A. §65-5-213.

1700-6-1-.06 REFERRAL PREFERENCE.

- (1) A Qualifying Business referred to the Program Administrator or to a Qualified Organization from the Department of Economic and Community Development or the Governor's Office of Diversity Enterprise shall be given the highest priority for Program Funds available for Loans, Loan Guarantees, and Program Services.

Authority: T.C.A. §65-5-213.

1700-6-1-.07 ACCOUNTABILITY.

- (1) The Department shall annually summarize Program activities in a report to the General Assembly. Such report shall also include the financial statements of the Program.

Authority: T.C.A. §65-5-213.

1700-6-1-.08 AUTHORITY OVER PROGRAM FUND.

- (1) The Program Fund shall be retained as a segregated account in the State Treasury.
- (2) With regard to Loan Guarantees, a reserve shall be created in the Program Fund to support outstanding Loan Guarantees. This reserve shall equal one hundred percent (100%) of outstanding Loans Guarantees.

Authority: T.C.A. §65-5-213.

1700-6-1-.09 QUALITY ASSURANCE COMMITTEE.

- (1) **Membership.** A Quality Assurance Committee of five (5) members shall be established. Members of the Committee shall be the state treasurer, the state comptroller, the secretary of state, the commissioner of financial institutions, and the commissioner of economic and community development provided such persons agree to serve. The Treasurer may appoint alternative members for any of the above named state officials who decline to serve. The members shall elect a chair and such other officers as deemed necessary. A majority of the members of the Committee shall constitute a quorum, and the affirmative vote of fifty-one percent (51%) of the convened members shall be necessary for any action to be taken. The Committee shall meet quarterly and at such other times as deemed necessary by the chair.
- (2) **Designees.** Members of the Committee may appoint designees to attend meetings of the Committee and to exercise their right to vote in their absence. Such designations shall be in writing to the chair and filed with the Secretary of State.
- (3) **Expense Reimbursement.** Members of the Committee shall serve without compensation but shall receive reasonable reimbursement for actual and necessary travel expenses in accordance with the travel regulations promulgated by the Tennessee Department of Finance and Administration and approved by the Attorney General and Reporter.
- (4) **Purpose.** The purpose of the Quality Assurance Committee is to evaluate Program integrity and to recommend any corrective action deemed appropriate by the Committee. Specifically, the Committee shall review the actions of the Department and the Program Administrator relative to Loans and Loan Guarantees to ensure that relevant documentation standards and Program requirements are fulfilled.

Authority: T.C.A. § 65-5-213.

1700-6-1-.10 LOAN PROGRAM.

- (1) **In General.** The Program will loan funds at below market rates to selected Qualified Organizations. Qualified Organizations shall be responsible for originating and servicing loans and providing needed Program Services to Qualifying Businesses receiving loans from such organizations. Selected Qualified Organizations may retain the interest rate spread between the loan provided by the Program and the lending rate to Qualifying Businesses to fund the cost of originating and servicing such loans, including providing appropriate Program Services to Qualifying Businesses receiving loans from such organizations. Qualified Organizations shall be competitively selected, with no more than two (2) organizations selected for each grand division of the State. In making a determination of the number of Qualified Organizations to be selected, primary consideration will be given to assure that geographic coverage is sufficient to service the Program.
- (2) **As principal and interest is repaid to a Qualified Organization, the principal amount may be retained by the Qualified Organization to be used for new loans to other Qualifying Businesses, provided the Qualified Organization adheres to Program requirements.**
- (3) **Loan Conditions of Program to Qualified Organizations.**
 - (a) **Interest Rate.** The Program shall lend Program Funds to selected Qualified Organizations at the prevailing fed funds rate. The rate shall be fixed for the term of the loan based on the rate in effect on the date of such loan.
 - (b) **Term.** Loans shall be for a term of five (5) years and shall be renewable for additional five (5) year terms, at the option of the Treasurer.

- (c) Funds Drawdown. Selected Qualified Organizations may draw funds as loans to Qualifying Businesses are originated.
 - (d) Repayment of Loans to Program Fund. The repayment of loan principal may be deferred until the end of the loan term.
 - (e) Loan Review. Loans made with Program Funds are subject to quality assurance reviews by the persons designated by the Department. Qualified Organizations shall cooperate with such reviews.
- (4) Technical Services. It shall be the responsibility of selected Qualified Organizations to provide Program Services to Qualifying Businesses obtaining loans from such organization.
 - (5) In furtherance of the legislative intent that the Program serve businesses in Tennessee that do not have reasonable access to capital markets and traditional commercial lending facilities, it is acknowledged that loan losses will occur. It is expected that the loan losses will exceed industry standards.

Authority: T.C.A. §65-5-213.

1700-6-1-.11 QUALIFIED ORGANIZATION.

- (1) The Qualified Organization shall use Program Funds to make Loans to Qualifying Businesses for the purpose of starting and expanding their businesses. The Program Administrator shall disburse the funds to Qualified Organizations across all areas of the State of Tennessee, thereby expanding opportunities for Qualifying Businesses throughout Tennessee.
- (2) Selection of Qualified Organizations.
 - (a) Process. The Program Administrator shall assist the Department with the selection of Qualified Organizations. Such selection shall be a competitive process. Factors to be considered in such selection shall include, but are not limited to:
 - 1. Qualifications. Selected organizations must have individuals who have demonstrated qualifications in lending activities.
 - 2. Experience. Selected organizations should reflect a history of lending activities of the type envisioned for the Program. Organizations should be able to demonstrate their track record of originating loans to Qualifying Businesses and the level of success in repayment of such loans.
 - 3. Loan Servicing. Selected organizations must have a demonstrated ability and history of successfully servicing loans of the type envisioned for the Program.
 - 4. Commitment to adhere to Program Requirements. Selected organizations must indicate a commitment and ability to comply with Program requirements, including reporting.
 - (b) Match Preferred. In selecting Qualified Organizations, preference shall be given to organizations that are able to match funding provided through the Program.
 - (c) The specific responsibilities and requirements of the Qualified Organization shall be contained within the contract executed by the selected organization and the Department.

(3) Reporting.

- (a) **Qualified Organizations.** Each selected Qualified Organization shall provide a monthly written report to the Program Administrator as specified in the contract. The report may contain summary information on the amount of funds disbursed during the period, the amount of interest and principal repaid during the period, and the balance of the Program Fund's loan with such organization. The report may also list the companies or individuals receiving loans with Program Funds along with, for each company, the original principal amount, the remaining principal owed, the monthly payment amount broken down into principal and interest, the current payment due date, the amount and date of the last payment, and such other information as the Program Administrator deems necessary. The report may also contain a listing, along with appropriate data, of companies or individuals that have principal or interest payments in arrears, as well as other comparable information that may be approved by the Department.
- (b) **Program Administrator.** The Program Administrator shall provide a monthly written report to the Department, which summarizes the activities of each Qualified Organization, including totals for all organizations combined. Within such report, the Program Administrator shall identify any instances of non-compliance with Program requirements or contractual provisions. The Program Administrator shall report other information that may be requested by the Department.

Authority: T.C.A. §65-5-213.

1700-6-1-.12 CRITERIA FOR LOANS TO QUALIFYING BUSINESSES.

- (1) When evaluating Applications for Loans, the Qualified Organizations shall follow prudent lending practices. The following additional criteria shall apply:
 - (a) **Maximum Loan Amount.** The maximum Loan amount shall be one hundred twenty-five thousand dollars (\$125,000).
 - (b) **Minimum Loan Amount.** The minimum Loan amount shall be ten thousand dollars (\$10,000).
 - (c) **Loan Interest Rate.** The interest rate that may be charged on Loans made with Program Funds may be a fixed rate or a variable rate, provided that any such variable interest rate shall not exceed the maximum rate or fall below the minimum rate, as hereinafter defined, at any time.
 - (d) **Maximum Loan Interest Rate.** The maximum interest rate that may be charged on Loans made with Program Funds is 2% over the "Prime Rate" as published in the Wall Street Journal on the day the Loan is made.
 - (e) **Minimum Loan Interest Rate.** The minimum interest rate that may be charged on Loans made with Program Funds is 2% below the "Prime Rate" as published in the Wall Street Journal on the day the Loan is made.
 - (f) **Fees.** Late charges, as permitted by Tennessee law, may be imposed. Other fees, including an Application fee, may be imposed provided such fees are not unreasonable.
 - (g) **Term.** The maximum permitted repayment periods for Loans are as follows:
 - 1. For equipment, the lesser of five (5) years or useful life;

2. For working capital, supplies, and inventory, three (3) years; and
 3. For other business-related activity, the lesser of five (5) years or useful life.
- (h) Collateral and Security. Both business and personal collateral may be taken as security for a Loan and may include real property, tangible personal property, accounts receivable, certificates of deposit, and other intangibles. The Loan shall be secured with collateral with the intent that a standard should be for each Loan to be fully secured with collateral. Assets acquired with Loan proceeds shall be used to secure the Loan.
 - (i) Guaranty Agreement. Personal guarantees from all principal owners shall be obtained. Principal owners are those who have a twenty percent (20%) or more ownership interest in the company.
 - (j) Change of Ownership. If at any time during the term of the Loan the Qualifying Business ceases to be used to provide services, or the Qualifying Business sells, ceases to own, assigns, transfers, or otherwise disposes of all or any part of the Qualifying Business, it is the responsibility of the Qualifying Business to notify the Qualified Organization prior to the change of ownership. The Qualified Organization shall take such action as it deems appropriate in accordance with provisions of the Loan documents.
 - (k) Title Insurance. The Qualified Organization may require the Applicant to provide a Loan Policy of Title Insurance (i) issued by a title insurance company, (ii) for an amount equal to the maximum principal amount of the Loan, (iii) insuring the Program, (iv) evidencing that on the date of closing, interests in the property on or in which the Qualifying Business is located, as well as any properties offered as collateral, are vested in the appropriate party, and (v) containing only standard exceptions and encumbrances approved by the Qualified Organization. The Qualified Organization may require the title insurance policy to be accompanied by a survey and title to the property and showing that there are no easements or encroachments upon or other matters pertaining to the property, except those deemed acceptable to the Qualified Organization. In Applications where the Qualifying Business is to be housed in a leased facility, the Qualified Organization may require the Applicant to provide a fully executed lease agreement.
 - (l) Insurance. The Qualified Organization may require the Applicant, owners, and/or key managers to obtain and assign to the Program life insurance in the amount of the Loan. The Qualified Organization may also require business interruption insurance, hazard and casualty insurance, flood insurance, homeowner's insurance, and other appropriate forms of insurance.
 - (m) Appraisals. The Qualified Organization may require appraisals by qualified appraisers for each property offered as collateral for the Loan Guarantee.
 - (n) Other. The Qualified Organization may require environmental audits as well as other documents at its reasonable discretion.

Authority: T.C.A. §65-5-213.

1700-6-1-.13 CONFLICTS OF INTEREST.

- (a) Participation in the Program by any member of the Department, employees of a Qualified Organization or the Program Administrator staff shall be governed by the provisions of T.C.A. §12-4-101 et seq.

- (b) No member of the Department, employees of a Qualified Organization or the Program Administrator staff shall be directly interested, as defined in T.C.A. § 12-4-101(a)(1), in any Qualifying Business for which the Qualified Organization is considering a Loan for the duration of his or her tenure.
- (c) Any member of the Department, employees of a Qualified Organization or the Program Administrator staff who is indirectly interested, as defined in T.C.A. §12-4-101(b), in any Qualifying Business for which the Qualified Organization is considering a Loan must disclose such interest in writing and shall refrain from participation in any discussion or activity in connection with such Application for a Loan. This disclosure shall be set forth in the official records held by the Qualified Organization.
- (d) Any violations of this Rule 1700-6-1-.13 shall be subject to the penalties specified in T.C.A. § 12-4-102.

Authority: T.C.A. §§65-5-213, 12-4-101, and 12-4-102.

1700-6-1-.14 LOAN GUARANTEE PROGRAM.

- (1) The award of Loan Guarantees is to be determined by the Loan Guarantee Committee, subject to the subsequent approval of the Treasurer.
- (2) Specific administration and reporting of Loan Guarantees is to be provided by the Program Administrator.

Authority: T.C.A. §65-5-213.

1700-6-1-.15 LOAN GUARANTEE COMMITTEE.

- (1) Membership and Governance.
 - (a) A Loan Guarantee Committee shall be established for the purpose of evaluating and recommending action relative to Loan Guarantees under the Program. The Loan Guarantee Committee shall consist of the state treasurer (or designee) and five (5) members appointed by the Treasurer. The Treasurer shall serve as chair and will be a non-voting member. All persons appointed shall be competent to serve on the Loan Guarantee Committee by reason of experience in related business fields. At least two (2) members of the Loan Guarantee Committee shall be a minority and at least (1) member shall be a female.
 - (b) Appointed members shall serve a three (3) year term except that in the initial appointment, three (3) of the appointive members shall be designated to serve a five (5) year term. Appointed members shall be eligible for reappointment and shall continue to serve until a successor is appointed.
 - (c) Any person appointed to fill a vacancy in the office of a member of the Loan Guarantee Committee shall serve for only the unexpired term of such member. Any member may be removed for cause.
 - (d) Five (5) of the members of the Loan Guarantee Committee shall constitute a quorum, and the affirmative vote of fifty-one percent (51%) of the convened members shall be necessary for any action to be taken by the Loan Guarantee Committee.

- (e) The appointed members of the Loan Guarantee Committee shall serve without compensation, but each member shall be entitled to reimbursement for reasonable expenses incurred in the performance of official duties. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.
- (2) Duties of the Loan Guarantee Committee. The Loan Guarantee Committee shall:
 - (a) Review and act to approve or deny Applications for Loan Guarantees presented by the Program Administrator. The Treasurer may disapprove any Loan approved by the Loan Guarantee Committee.
 - (b) Periodically review the condition of the Loan Guarantee portfolio and report to Treasurer any findings or recommendations regarding such portfolio.

Authority: T.C.A. §65-5-213.

1700-6-1-.16 CONFLICTS OF INTEREST.

- (1) Participation in the Program by any member of the Loan Guarantee Committee, or member of the Department or Program Administrator staff serving as support to the Loan Guarantee Committee, shall be governed by the provisions of T.C.A. § 12-4-101 et seq.
- (2) No member of the Loan Guarantee Committee, or member of the Department or Program Administrator staff serving as support to the Loan Guarantee Committee, shall be directly interested, as defined in T.C.A. § 12-4-101(a)(1), in any Qualifying Business for which the Loan Guarantee Committee is considering a Loan Guarantee for the duration of his or her tenure with the Loan Guarantee Committee.
- (3) Any member of the Loan Guarantee Committee, or member of the Department or Program Administrator staff serving as support to the Loan Guarantee Committee, who is indirectly interested, as defined in T.C.A. § 12-4-101(b), in any Qualifying Business for which the Loan Guarantee Committee is considering a Loan Guarantee must disclose such interest in writing and shall refrain from participation in any discussion or activity by the Loan Guarantee Committee in connection with such Application for a Loan Guarantee. This disclosure shall be set forth in the official minutes of the Loan Guarantee Committee.
- (4) Any violations of this Rule 1700-6-1-.16 shall be subject to the penalties specified in T.C.A. § 12-4-102.

Authority: T.C.A. §§65-5-213, 12-4-101, and 12-4-102.

1700-6-1-.17 CRITERIA FOR LOAN GUARANTEE.

- (1) Prudent Lending Practices. When evaluating any Applications for Loan Guarantees under this Program, the Loan Guarantee Committee shall follow prudent lending practices.
- (2) Maximum Loan Guarantee Amount. The Loan Guarantee Committee may recommend a Loan Guarantee for a maximum amount of eighty percent (80%) of the principal amount of a Loan, provided the Loan Guarantee does not exceed three hundred thousand dollars (\$300,000). Cumulative Loan Guarantee awards to a Qualifying Business shall not exceed three hundred thousand dollars (\$300,000). In order to achieve equitable distribution of the benefits of the Program, the Loan Guarantee Committee may lower the maximum

amount of a Loan Guarantee and may limit the number of Loan Guarantees per Applicant/Qualifying Business. At no time will the Loan Guarantee Committee recommend nor the Treasurer approve the encumbrance of an amount in excess of funds available in the Program Fund.

- (3) Term. The maximum permitted repayment periods for Loans are as follows:
 - (a) For equipment, the lesser of five (5) years or useful life;
 - (b) For working capital, supplies, and inventory, three (3) years; and
 - (c) For other business-related activity, the lesser of five (5) years or useful life.
- (4) Fees. Late charges, as permitted by Tennessee law, may be imposed. Other fees, including an Application fee, may be imposed provided such fees are not unreasonable.
- (5) Loan Interest Rate. The interest rate on a Loan may be fixed or variable as negotiated by the Lender and the Applicant and approved by the Loan Guarantee Committee. There is no established minimum rate; however, the Loan Guarantee Committee will give greater consideration to Applications with a fixed rate over a variable rate. The Loan Guarantee Committee will not recommend for approval a Loan Guarantee for a Loan with an interest rate that it deems, in its sole reasonable discretion, to be excessive.
- (6) Collateral and Security. Both business and personal collateral may be taken as security for a Loan Guarantee. Personal guarantees of the principals owning twenty percent (20%) of the business may be required. Lesser owners may be required to provide limited guarantees on a case-by-case review. Assets acquired with Loan proceeds are generally expected to secure the Loan and the Loan Guarantee. The Loan Guarantee shall also be secured by liens on and security interests in the Qualifying Business and other collateral approved by the Lender and the Loan Guarantee Committee.
- (7) Change of Ownership. If at any time during the term of the Loan Guarantee the Qualifying Business ceases to be used to provide services, or the Applicant sells, ceases to own, assigns, transfers, or otherwise disposes of all or any part of the Qualifying Business, it is the responsibility of the Qualifying Business and the Lender to notify the Program Administrator prior to the change of ownership. The Program Administrator shall recommend an action to the Loan Guarantee Committee which may include termination, re-issuance or other action as deemed appropriate.
- (8) Title Insurance. The Loan Guarantee Committee or the Lender may require the Applicant to provide a Loan Policy of Title Insurance (i) issued by a title insurance company acceptable to the Loan Guarantee Committee, (ii) for an amount equal to the maximum principal amount of the loan, (iii) insuring the Lender and the Program, (iv) evidencing that on the date of closing, interests in the property on or in which the Qualifying Business is located, as well as any properties offered as collateral, are vested in the appropriate party, and (v) containing only standard exceptions and encumbrances approved by the Loan Guarantee Committee. The Loan Guarantee Committee may require the title insurance policy to be accompanied by a survey and title to the property, certified in the manner required by the Loan Guarantee Committee and showing that there are no easements or encroachments upon or other matters pertaining to the property, except those acceptable to the Loan Guarantee Committee. In Applications where the Qualifying Business is to be housed in a leased facility, the Loan Guarantee Committee or the Lender may require the Applicant to provide a fully executed lease agreement.
- (9) Insurance. The Loan Guarantee Committee may require the Applicant, owners, and/or key managers to obtain and assign to the Program life insurance in the amount of the loan. The Loan Guarantee Committee may also require business interruption insurance, hazard and casualty insurance, flood insurance, homeowner's insurance, and other appropriate forms of insurance.

- (10) Appraisals. The Loan Guarantee Committee may require appraisals by qualified appraisers for each property offered as collateral for the Loan Guarantee.
- (11) Other. The Loan Guarantee Committee may require environmental audits as well as other documents at its reasonable discretion.

Authority: T.C.A. §65-5-213.

1700-6-1-.18 LOAN DOCUMENTS.

- (1) Prior to the execution of any Loan Guarantee under the Program, the Lender or the Applicant shall provide the Program with copies of relevant Loan Documents at the direction of the Program Administrator.

Authority: T.C.A. §65-5-213.

1700-6-1-.19 APPLICATION AND APPLICATION REVIEW.

- (1) Applicants must submit a complete Application to the Program Administrator to be considered for a Loan Guarantee. A complete Application consists of all the following:
 - (a) description of Applicant with management profiles;
 - (b) itemized Project budget (start-up and operating, known and estimated costs);
 - (c) Project description;
 - (d) amount of Loan Guarantee assistance sought from the Program;
 - (e) estimated completion time;
 - (f) Project justification (information relating to the Applicant's inability to obtain adequate financing through normal private sector lenders at reasonable terms);
 - (g) population to be served; and
 - (h) detail of other funds available to the Applicant without the Program's Loan Guarantee.
- (2) At the request of the Program Administrator, the Applicant shall provide a:
 - (a) current audited balance sheet;
 - (b) profit and loss statements;
 - (c) credit references;
 - (d) cash flow statement; and
 - (e) information pertaining to collateral required by the Lender.

- (3) As applicable, the Loan Documents required by the Lender from the Applicant will be accepted by the Program Administrator in partial fulfillment of the Application.
- (4) The Program Administrator reserves the right to request any other relevant information under the Program.
- (5) The Program Administrator will review an Application for completeness, eligibility, and soundness.
 - (a) The Program Administrator shall reject any Application that is found ineligible under any provision of the Act or these Rules.
 - (b) If, after such review, the Program Administrator determines that the Applicant is eligible under the provisions of the Act and these Rules, the Program Administrator shall submit the Application to the Loan Guarantee Committee for evaluation.

Authority: T.C.A. §65-5-213.

1700-6-1-.20 MONITORING LOAN GUARANTEES.

- (1) It is the duty of the Lender to report quarterly to the Program Administrator on the repayment status of any loan guaranteed by the Program. The Program Administrator shall prescribe the form of the report. Failure of the Lender to report shall constitute grounds for withdrawal of the Loan Guarantee.
- (2) The Program Administrator shall monitor all Projects together with the repayment of any Loans for which Loan Guarantees are awarded. The Program Administrator shall report to the Treasurer and the Loan Guarantee Committee any material problem which could result in a default on any loan guaranteed by the Program.
- (3) On a quarterly basis or more often as necessary, the Loan Guarantee Committee shall review the operation of the Program to identify and discuss any material problem reported by the Program Administrator which could result in a default on any loan guaranteed hereunder. The Loan Guarantee Committee shall report to the Treasurer any action proposed to be taken in regard to such a situation.
- (4) The Lender shall notify the Program of any defaults and the Lender's efforts to recover any losses. The Lender shall exhaust all recovery remedies prior to claiming any funds from the Program. In the event that a Loan Guarantee is called upon, the Treasurer shall, in coordination with the Attorney General and Reporter, institute any enforcement action and/or pursue any collection remedy against the Qualifying Business deemed appropriate.
- (5) In the event of a loss associated with a Loan Guarantee, the Program shall only be responsible for the percentage of the principal that was guaranteed by the Program. The Program shall share on the same percentage basis any subsequent recoveries.

Authority: T.C.A. §65-5-213.

1700-6-1-.21 PROGRAM SERVICES.

- (1) The Program shall also provide Program Services in the form of technical assistance and education and consulting services to Qualifying Businesses that may or may not be making Application for Loans or Loan Guarantees under the Program. Program Services shall include, but shall not be limited to, financial counseling and assistance with packaging loan proposals, conducting pertinent training workshops and seminars, certifying Qualifying Businesses and identifying procurement opportunities with state, federal, and local government systems.
- (2) All providers of Program Services shall be selected on a competitive basis.

Authority: *T.C.A. §65-5-213.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of November, 2004. (11-23)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 20th day of January, 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids 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 Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number (615)781-6594.

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

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1660-1-5
RULES AND REGULATIONS FOR FISHING**

Rule 1660-1-5-.03 TWRA Lakes is amended by deleting paragraph (3) in its entirety and by substituting the following new language so that, as amended, it shall read as follows:

- (3) Residents exempt from the Daily Lake Permit are: those 65 years of age and older, children under 16 years of age and those with a Sportman's License.

Authority: T.C.A. §§70-1-206 and 69-10-209.

Rule 1660-1-5-.03 TWRA Lakes is further amended by adding a new paragraph (15) that shall read as follows:

- (15) Use Fees
- (a) Resident/Non-Resident Bedford Lake 1 Day Fishing Permit (Type 65) - \$5.00
 - (b) Daily TWRA Lake Fishing Permit (Type 191) – \$5.00
 - (c) TWRA Lake Boat Rental Permit (Type 192) - \$8.00
 - (d) Annual TWRA Lake Fishing Permit (Type 193) - \$40.00

Authority: T.C.A. §§70-1-206 and 69-10-209.

**CHAPTER 1660-1-14
RULES AND REGULATIONS FOR REFUGES AND WILDLIFE MANAGEMENT AREAS**

AMENDMENT

1660-1-14-.15(1) Fees for Use of Royal Blue and Sundquist Wildlife Management Areas paragraph (1) is amended by deleting it in its entirety and inserting instead the following language so that it shall read:

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

- (1) Fees for horseback riding, bicycling, and off highway vehicle use shall be as follows (youths under age thirteen (13) exempted):
- (a) Residents
 - 1. Annual Fee - \$60.00 or possession of an annual or permanent Hunting and Fishing License and any permit (required to hunt on the Royal Blue and Sundquist Wildlife Management Areas) or any Sportsman License.
 - 2. Daily Fee - \$12.00

(b) Non-Residents

1. Annual Fee - \$190.00 or possession of a Non-Resident Annual "All Game" hunting license and any permit required to hunt on the Royal Blue and Sundquist Wildlife Management Areas.
2. Daily Fee - \$30.00

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

**CHAPTER 1660-1-15
ANIMAL IMPORTATION**

AMENDMENT

Rule 1660-1-15-.01 Importation Permit is amended by deleting the title "Importation Permit" in its entirety and replacing it with the following title:

1660-1-15-.01 IMPORTATION OF LIVE WILDLIFE

Rule 1660-1-15-.01 Importation of Live Wildlife is further amended by deleting paragraph (1) in its entirety and replacing it with the following language:

- (1) Before any person in the State of Tennessee may have in his or her possession any live wild animal species obtained outside of the State of Tennessee, he or she must import such animal in accordance with the following:

Rule 1660-1-15-.01 Importation of Live Wildlife is also amended by deleting section (h) of paragraph (1) in its entirety and replacing it with the following language:

- (h) The above mentioned requirements do not apply to Class III Wildlife.

Authority: T.C.A. §§70-4-401; 70-4-404 and 70-1-206.

**CHAPTER 1660-1-27
RULES AND REGULATIONS FOR STATE OPERATED
HUNTER EDUCATION CENTERS AND FIRING RANGES**

AMENDMENT

1660-1-27-.04 Stones River Hunter Education Center is amended by deleting (a) and replacing it with a new (a) so that, as amended, the rule shall read:

1660-1-27-.04 STONES RIVER HUNTER EDUCATION CENTER.

- (1) Use Fees
 - (a) Adult (16 years of age and older) - \$5.00 per 2 hours.
 - (b) Youth (15 years of age or less) - \$1.00 per 2 hours.

- (c) Adult Annual Fee (16 years of age and older) - \$100.00.
- (d) Youth Annual Fee (15 years of age or less) - \$25.00.

1660-1-27-.05 Tennessee Wildlife Resources Agency Hunter Education and Range Facility is amended by deleting (b) and replacing it with a new (b) so that, as amended, the rule shall read:

1660-1-27-.05 TENNESSEE WILDLIFE RESOURCES AGENCY HUNTER EDUCATION AND RANGE FACILITY.

- (1) Use Fees
 - (a) \$8.00 per hour (all ages); \$12.00 per hour for two persons sharing a lane, if and when allowed.
 - (b) Annual Fee (all ages) - \$420.00
 - (c) Group fee - \$100.00 per hour with \$500 minimum.
 - (d) Classroom fee - \$35.00 per hour and a \$150.00 damage deposit.
 - (e) Surcharge of \$50.00 for after-hour use of facilities, in addition to regular rates.

1660-1-27-.06 John Sevier Hunter Education Center is amended by deleting (a) and replacing it with a new (a) so that, as amended, the rule shall read:

1660-1-27-.06 JOHN SEVIER HUNTER EDUCATION CENTER.

- (1) Use Fees
 - (a) Adult (16 years of age and older) -\$5.00 per 2 hours.
 - (b) Youth (15 years of age or less) - \$1.00 per 2 hours.
 - (c) Adult Annual Fee (16 years of age and older) - \$100.00.
 - (d) Youth Annual Fee (15 years of age or less) - \$25.00.

Authority: T.C.A. §§70-1-206 and 70-2-224

**CHAPTER 1660-1-28
RULES AND REGULATIONS GOVERNING LICENSE AND PERMIT FEES**

NEW RULE

1660-1-28-.01 RESIDENT LICENSES AND PERMITS

- (1) The following license and permit fees are set as follows:

Type: Description:

01	Resident Combo Sport Hunt/Fish	\$27.00
02	Resident Youth Annual Hunt/Fish/Trap	\$7.00
04	Sportsman License	\$135.00
05	Resident Waterfowl	\$30.00
06	Migratory Bird Certificate	\$1.00
09	Resident Big Game Gun	\$27.00
10	Resident Big Game Archery	\$27.00
11	Resident Big Game Muzzleloader	\$27.00
19	Resident Trapping	\$27.00
20	Resident County Of Residence	\$8.00
21	Resident 1-Day Fishing	\$5.00
22	Resident Trout	\$17.00

Authority: T.C.A. §70-1-206.

1660-1-28-.02 NON-RESIDENT LICENSES AND PERMITS

(1) The following license and permit fees are set as follows:

Type: Description:

70	Nonresident Junior Sm. Game Hunt & Fishing	\$8.00
71	Nonresident Small Game & Waterfowl Hunting	\$90.00
72	Nonresident 7 Day Small Game & Waterfowl Hunting	\$50.00
73	Nonresident All Game	\$250.00
74	Nonresident 7-Day Hunting All Game	\$175.00
76	Nonresident Fishing-No Trout	\$40.00
77	Nonresident 3-Day Fish No Trout	\$16.00
78	Nonresident 3-Day All Species	\$33.00
79	Nonresident 10 Day Fish - No Trout	\$25.00
80	Nonresident 10 Day Fish All Species	\$50.00
81	Nonresident Fishing, All Species	\$80.00

Authority: T.C.A. §70-1-206.

1660-1-28-.03 WILDLIFE MANAGEMENT AREA & DESIGNATED AREA PERMITS

(1) The following license and permit fees are set as follows:

Type: Description:

88	Reelfoot Preserve Permit, 3-Day	\$10.00
89	Reelfoot Preserve Permit, Annual	\$16.00
90	Reelfoot Preserve Permit, 1-Day	\$3.00
91	Designated Area Small Game & Waterfowl	\$50.00
92	Designated Area Small Game & Waterfowl 1-Day	\$10.00
93	Designated Small Game Annual	\$16.00

94	Designated Non-Quota Big Game Annual	\$20.00
95	Cherokee WMA Big Game Non-Quota	\$15.00
96	3-Day Gatlinburg Trout	\$6.00
97	Non-Resident 1-Day Gatlinburg Trout	\$10.00
98	Tellico/Citico Trout 1-Day	\$5.00
99	1-Day Gatlinburg Trout	\$2.00

Authority: T.C.A. §70-1-206.

1660-1-28-.04 MISCELLANEOUS LICENSES AND PERMITS

(1) The following license and permit fees are set as follows:

Type: Description:

101	Resident Commercial Fishing	\$500.00
102	Resident Commercial Fishing-Helper	\$500.00
103	Nonresident Commercial Fishing	\$2,000.00
104	Nonresident Commercial Fishing-Helper	\$2,000.00
105	Resident Commercial Musseling	\$500.00
106	Ten Day Commercial Gear Fishing (No Sales) New	\$100.00
107	Nonresident Commercial Musseling	\$2,000.00
108	Paddlefish Supplemental Permit New	\$2,000.00
109	Cultured Pearl License	\$1,000.00
113	Wholesale Fish Dealer	\$1,000.00
115	Wholesale Mussel Dealer	\$1,000.00
116	Nonresident Fish Dealer	\$1,000.00
117	Resident Falconry General	\$60.00
118	Resident Fish Dealer	\$50.00
120	Nonresident Trapping	\$400.00
121	Resident/Non-resident Fur Buyer	\$150.00
122	Resident Falconry Apprentice	\$60.00
123	Resident Falconry Master	\$60.00
124	Commercial Wildlife Preserve-Big Game	\$300.00
125	Commercial Wildlife Preserve-Small Game	\$150.00
130	Waterfowl Collector Stamp	\$10.00
	Elk Collector Stamp	\$10.00
	Wildlife Wren Stamp	\$10.00
141	Taxidermy	\$100.00
149	Animal Importation Permit, One Shipment	\$25.00
150	Animal Importation Permit, Annual	\$200.00
160	Permanent Exhibitor Permit	\$1,000.00
161	Temporary Exhibitor Permit	\$250.00
166	Resident Senior Citizen	\$10.00
167	Senior Citizen Supplemental	\$40.00
170	Personal Possess Permit, One Animal	\$150.00
171	Personal Possess Permit, Entire Facility, Class I	\$1,500.00
172	Personal Possession Class II, One Animal	\$25.00
173	Personal Possession Class II, Entire Facility.	\$250.00
174	Propagation Facility Small Game/Waterfowl	\$50.00

175	Propagation Facility-Class II	\$250.00
176	Propagation Facility-Class I & II	\$2,500.00
189	Wheelchair Confined Hunt/Fish	\$10.00
190	Slat Basket Tag Permit	\$8.00
194	Replacement License	\$6.00
195	Replacement License \$1.00	\$1.00
	WMA Quota Hunt Permit	\$20.00
197	Resident Blind Fishing	\$10.00
198	Resident Disabled Veteran	\$10.00
199	Resident Mentally Challenged	\$10.00
500	Hunters Education Replacement Card	\$6.00

Authority: T.C.A. §70-1-206.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of November, 2004. (11-21)



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 November 1, 2004 and ending November 30, 2004.

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

RILEY C. DARNELL
Secretary of State

