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TENNESSEE ADMINISTRATIVE REGISTER



March 15, 2005
Volume 31, Number 3

RILEY C. DARNELL

Secretary of State

Division of Publications
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PREFACE

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

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

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

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

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

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

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

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

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ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

1. **Petitioner's Name:** Friends of the Caney Fork
2. **Petitioner's Attorney:** William L Penny
Address: 2525 West End Avenue
Suite 1500
Nashville, TN 37203
Telephone Number: 615-244-0020

3. **Background:**

The town of Spencer owns and operates a waste water treatment plant which currently discharges in Lick Branch in Van Buren County. The town applied for and was issued an NPDES permit #077691(permit) to discharge treated waste water at mile 100.0 or mile 104.6 of the Caney Fork River by the Tennessee Department of Environment and Conservation (TDEC). The Petitioners filed a request for Declaratory Order with the Water Quality Control Board (Board) challenging the validity of the permit. The Board on January 18, 2005 decided to convene a contested case hearing in accordance with T.C.A. 4-5-224.

4. **Summary of the relief requested:**

The Petitioners have requested a ruling from the Board that the permit be declared invalid. The petitioners further request that the board declare that the water quality standards adopted by the Board are not protective of non-wadeable stream, such as reservoirs. Finally the petitioners also request the permit is invalid because TDEC did not follow public notice procedures and in the event the discharge is outside of the City of Spencer, that the Department make timely and adequate notice to persons in the vicinity of the discharge.

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

Administrative Procedures Docket Number: 04.30-067748A

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

Copies must also go to: Patrick N. Parker
Tennessee Dept. of Environment & Conservation
Office of General Counsel
312 8th Avenue, North
25th Floor, William R. Snodgrass Bldg.
Nashville, TN 37243-1548

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 9.50%.

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 April 2005 is 8.68 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 4.68 percent.

Persons affected by the maximum effective rate of interest for home loans as set forth in this notice should consult legal counsel as to the effect of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P.L. 96-221 as amended by P.L. 96-399) and regulations pursuant to that Act promulgated by the Federal Home Loan Bank Board. State usury laws as they relate to certain loans made after March 31, 1980, may be preempted by this Act.

Kevin P. Lavender

GOVERNMENT OPERATIONS COMMITTEES**ANNOUNCEMENT OF PUBLIC HEARINGS**

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the previous month. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
02-01	Feb 2, 2005	1680 Transportation Construction Division	Rulemaking Hearing Rules	New Rules	<i>Chapter 1680-5-1 Contractor Debarment and Suspension</i> 1680-5-1-.01 General Information 1680-5-1-.02 Definitions 1680-5-1-.03 General Principles Relating to Suspension and Debarment Actions 1680-5-1-.04 Suspension 1680-5-1-.05 Debarment	John H. Reinbold Transportation Suite 300 Polk Bldg 505 Deaderick St Nashville TN 37243 (615) 741-2941	April 20, 2005
02-02	Feb 3, 2004	1640 TN Student Assistance Corporation	Proposed Rules	Amendments	<i>Chapter 1640-1-13 Minority Teaching Fellows Program</i> 1640-1-13-.01 1640-1-13-.02 General 1640-1-13-.03 Eligibility 1640-1-13-.05 Loan Amount and Terms	Lonna K. Hildreth TSAC Suite 1950, Pkwy Twrs 404 J Robertson Pkwy Nashville TN 37243 (615) 741-1346	June 28, 2005
02-03	Feb 3, 2005	1640 TN Student Assistance Corporation	Proposed Rules	Amendments	<i>Chapter 1640-1-17 TN Teaching Scholars Program</i> 1640-1-17-.01 Introduction 1640-1-17-.02 General 1640-1-17-.05 Loan Amount and Terms	Lonna K. Hildreth TSAC Suite 1950, Pkwy Twrs 404 J Robertson Pkwy Nashville TN 37243 (615) 741-1346	June 28, 2005
02-05	Feb 4, 12005	1680 Transportation	Rulemaking Hearing Rules	Repeals	<i>1680-5-1 Unacceptability for Employment on Contracts Let or Funded Wholly or in Part by the Dept of Transportation</i>	John H. Reinbold Transportation Suite 300 Polk Bldg 505 Deaderick St Nashville TN 37243 (615) 741-2941	April 20, 2005
02-07	Feb 10, 2005	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	<i>Chapter 1660-1-5 Rules and Regulations for Fishing</i> 1660-1-5-.03 TWRA Lakes	Sheryl Holtam TWRA POB 40747 Nashville TN 37204 (615) 781-6606	April 26, 2005
02-08	Feb 10, 2005	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	<i>Chapter 1660-1-14 Rules and Regulations for Refuges and Wildlife Management Areas</i> 1660-1-14-.15 Fees for Use of Royal Blue and Sundquist Wildlife Management Areas	Sheryl Holtam TWRA POB 40747 Nashville TN 37204 (615) 781-6606	April 26, 2005

ANNOUNCEMENTS

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SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
02-09	Feb 10, 2005	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-28 <i>Rules and Regulations Governing Licenses, Permits and Fees</i> 1660-1-28-.01 Basic Resident Licenses and Fees 1660-1-28-.02 Non-Resident Licenses and Fees 1660-1-28-.03 Wildlife Management Area & Designated Area Permits and Fees 1660-1-28-.04 Miscellaneous Licenses, Permits and Fees	Sheryl Holtam TWRA POB 40747 Nashville TN 37204 (615) 781-6606	April 26, 2005
02-10	Feb 10, 2005	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendments	1660-1-27 <i>Rules and Regulations for State Operated Hunter Education Centers and Firing Ranges</i> 1660-1-27-.04 Stones River Hunter Education Centers and Firing Ranges 1660-1-27-.05 Tennessee Wildlife Resources Agency Hunter Education and Range Facility 1660-1-27-.06 John Sevier Hunter Education Center	Sheryl Holtam TWRA POB 40747 Nashville TN 37204 (615) 781-6606	April 26, 2005
02-14	Feb 16, 2005	0800 Labor and Workforce Development Division of Occupational Safety and Health	Proposed Rules	Amendments	Chapter 0800-1-1 <i>Occupational Safety and Health Standards for General Industry</i> 0800-1-1-.06 Adoption and Citation of Federal Standards Chapter 0800-1-6 <i>Occupational Safety and Health Standards for Construction</i> 0800-1-6-.02 Adoption and Citation of Federal Standards Chapter 0800-1-7 <i>Occupational Safety and Health Standards for Agriculture</i> 0800-1-7-.01 Adoption and Citation of Federal Standards 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928	Michael M. Maenza OSHA 3rd Fl Andrew Johnson Twr 710 J Robertson Pkwy Nashville TN 37243-0659 (615) 741-7036	June 28, 2005

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
02-21	Feb 28, 2005	1660 Wildlife Resources Commission	Rulemaking Hearing Rules	Amendment	Chapter 1660-1-15 <i>Animal Importation</i> 1660-1-15-.01 Importation Permit	Sheryl Holtam, Attorney TWRA P.O. Box 40747 Nashville, TN 37204 (615) 781-6606	May 14, 2005

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

Applications will be heard at the **April 27, 2005** Health Services and Development Agency Meeting
(except as otherwise noted)

Denotes applications being placed on the **Consent Calendar which will be heard at the **March 23, 2005**
Health Services and Development Agency Meeting.
+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 **February 1, 2005**. 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 & DESCRIPTION

AmeriCare Specialty Hospital of Memphis
3391 Old Getwell Road
Memphis (Shelby County), TN 38118
CN0411-104
Contact Person: Michael Hampton, President
Phone No. 901-949-0011

The establishment of a twenty (20) bed freestanding psychiatric acute geriatric hospital to be licensed by the Department of Mental Health/Development Disabilities.

\$ 1,000,000.00

Mt. Juliet Imaging Center
Crossing Circle at corner of Mt. Juliet Road and Adams
Mt. Juliet (Wilson County), TN 37122
CN0411-105
Contact Person: William West, Esq.
Phone No. 615-726-5600

The establishment of an outpatient diagnostic center (ODC), acquisition of a computerized tomography (CT) scanner, and other imaging equipment. The location of this project will be on Crossings Circle at the corner of Mt. Juliet Road and Adams Lane in Mt. Juliet, Wilson County, Tennessee 37122.

\$ 3,397,577.00

No Place Like Home, Inc.
 4747 Windsong Park Drive
 Collierville (Shelby County), TN 38017
 CN0412-112
 Contact Person: John A. Flood, President
 Phone No. 901-853-3999

The establishment of a home care organization providing home health services in Shelby, Fayette, Haywood, Hardeman, Tipton, Lauderdale, Madison, Crockett, Dyer and Obion Counties.
 \$ 111,000.00

Medical Center Homecare Services
 101 Med Tech Parkway, Suite 100
 Johnson City (Washington County), TN 37604
 CN0501-001
 Contact Person: Allison Rogers, Planning Manager
 Phone No. 423-431-6548

The expansion of the home health and hospice service area of an existing home care organization to include Hawkins County. The existing service area includes: Washington, Greene, Carter, Johnson, Sullivan and Unicoi counties.
 \$ 8,000.00

* Endoscopy Center of Centennial
 State Street @ 17th and 18th Avenues
 Nashville (Davidson County), TN 37203
 CN0501-002
 Contact Person: John Wellborn, Consultant
 Phone No. 615-665-2022

The relocation of an existing four (4) procedure room ambulatory surgical treatment center limited to gastroenterology to an unaddressed site in the proposed State Street Medical Center office building on the north side of State Street between 17th and 18th Avenues North.
 \$ 4,433,649.00
 CONSENT CALENDAR

Woods Memorial Hospital District
 886 Hwy. 411 North
 Etowah (McMinn County), TN 37331
 CN0501-003
 Contact Person: David Southerland, Administrator
 Phone No. 423-263-3614

The conversion of ten (10) general acute care hospital beds to geriatric psychiatric beds. The new service will be managed by Horizon Mental Health Management.
 \$ 80,000.00

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 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)

PROPOSED RULES

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 0800-1-1 OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR GENERAL INDUSTRY

Presented herein are proposed amendments of the Department of Labor and Workforce Development, Division of Occupational Safety and Health submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Legal Services Office of the Department of Labor and Workforce Development, 8th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0655, and in the Administrative Procedures Division of the Department of State, 8th Floor, William R. Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the amendments or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed amendments, contact: Michael M. Maenza, Manager of Standards and Procedures, Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, 3rd Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0659, (615) 741-7036.

The text of the proposed amendments is as follows:

AMENDMENT

Paragraph (2) of Rule 0800-1-1-.06 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “January 1, 2005” to “July 1, 2005”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of July 1, 2005 except as provided in Rule 0800-1-1-.07 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

**CHAPTER 0800-1-6
OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR CONSTRUCTION**

AMENDMENT

Paragraph (2) of Rule 0800-1-6-.02 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “January 1, 2005” to “July 1, 2005”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of July 1, 2005 except as provided in Rule 0800-1-6-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

**CHAPTER 0800-1-7
OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE**

AMENDMENTS

Paragraph (2) of Rule 0800-1-7-.01 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “January 1, 2005” to “July 1, 2005”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of July 1, 2005 except as provided in Rule 0800-1-7-.02 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

Rule 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date in the second line from “January 1, 2005” to “July 1, 2005”, so that as amended the rule shall read:

0800-1-7-.02 EXCEPTIONS TO ADOPTION OF FEDERAL STANDARDS IN 29 CFR PART 1928. As of July 1, 2005, there are no exceptions.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

The proposed rules set out herein were properly filed in the Department of State on the 16th day of February, 2005, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of June, 2005. (02-14)

TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640**CHAPTER 1640-1-13
MINORITY TEACHING FELLOWS PROGRAM**

Presented herein are amended rules of the Tennessee Student Assistance Corporation submitted pursuant to Tenn. Code Ann. § 4-5-205 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue to the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 1950 of Parkway Towers located at 404 James Robertson Parkway, Nashville, Tennessee 37243 and in the Department of State, Administrative Procedures Division, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 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, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these rules, contact Ms. Lora Daniels, Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37243, telephone 615-741-1346.

AMENDMENTS

The text of the amended proposed rules is as follows:

The Introduction of Rule 1640-1-13-.01 is amended by deleting the third sentence in its entirety and adding the following sentence “Recipients who become public school teachers in Tennessee shall receive forgiveness of the fellowship balance based on one year’s teaching service for each year the fellowship was awarded.” so that as amended, the introduction shall now read:

These Rules implement the Minority Teaching Fellows Program authorized by T.C.A. Title 49, Chapter 4, Part 706 in Public Chapter 202 of the 1989 Public Acts (hereinafter called the Act). The Act provided for a \$5,000 fellowship award for minority Tennesseans who are preparing to become teachers. Recipients who become public school teachers in Tennessee shall receive forgiveness of the fellowship balance based on one year’s teaching service for each year the fellowship was awarded. The Tennessee Student Assistance Corporation shall administer the program under regulations and criteria developed jointly with the State Board of Education and the Tennessee Higher Education Commission.

Authority: T.C.A. §§49-4-204 and 49-4-706.

Subparagraph (d) of Rule 1640-1-13-.02, General, is amended by deleting the language “the ten (10) month contract period or its equivalent (two complete consecutive semesters of continuous full-time teaching).” and adding the words “two semesters of full-time teaching”, so that as amended, subparagraph (d) shall read:

- (d) “A full year of teaching service” shall be two semesters of full-time teaching.

Authority: T.C.A. §49-4-706.

Paragraph (4) of Rule 1640-1-13-.03, Eligibility, is amended by deleting the language “one year for each year the Fellowship was awarded” from the sentence, so that as amended, paragraph (4) shall read:

- (4) Submit to the Tennessee Student Assistance Corporation a signed Statement of Intent to teach in a Tennessee public kindergarten, elementary or secondary school and, after graduation, submit annual statements of employment to the Tennessee Student Assistance Corporation.

Authority: T.C.A. §§49-4-204 and 49-4-706.

Subparagraph (a) of Rule 1640-1-13-.05(3), Loan Amount and Terms, is amended by deleting the term “low-performing” and replacing it with “high priority”, so that as amended, subparagraph (a) shall read:

- (a) For each year of full-time eligible service, as defined in these regulations, the recipient shall receive cancellation credit of one year’s award. (This normally would be \$5,000 plus related interest.) If a recipient teaches for three consecutive years within seven years after graduation in an eligible school that is high priority or on warning status as designated by the State Department of Education or the State Board of Education, the recipient’s obligation will be cancelled. (This normally would be \$6,667 per year plus related interest.)

Authority: T.C.A. §§49-4-204 and 49-4-706.

Subparagraph (b) of Rule 1640-1-13-.05(3), Loan Amount and Terms, is amended by deleting the following language in the second sentence “low-performing” and replacing it with “high priority”, and also by deleting the third sentence in its entirety, and adding the following sentence “Fractions of a year may be credited in one semester or one-half (1/2) year increments toward cancellation for recipients who begin or end full time teaching in the middle of an academic year in a Tennessee public school.” so that as amended, subparagraph (b) shall read:

- (b) Cancellation credit will be calculated at a rate of \$5,000 per year of service plus Interest on each year of service. If a recipient teaches in an eligible school that is high-priority or on warning status, the cancellation credit will be calculated at a rate of \$6,667 per year of service plus interest on each year of service. Fractions of a year may be credited in one semester or one-half (1/2) year increments toward cancellation for recipients who begin or end full time teaching in the middle of an academic year in a Tennessee public school. At the end of such period, cancellation will be applied upon receipt of verification of the completion of such service.

Authority: T.C.A. §§49-4-204 and 49-4-706.

The proposed rules set out herein were properly filed in the Department of State on the 3rd day of February, 2005, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing will become effective on the 28th day of June, 2005. (02-02)

TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640**CHAPTER 1640-1-17
TENNESSEE TEACHING SCHOLARS PROGRAM**

Presented herein are amended rules of the Tennessee Student Assistance Corporation submitted pursuant to Tenn. Code Ann. § 4-5-205 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue to the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 1950 of Parkway Towers located at 404 James Robertson Parkway, Nashville, Tennessee 37243 and in the Department of State, Administrative Procedures Division, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 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, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these rules, contact Ms. Lora Daniels, Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37243, telephone 615-741-1346.

AMENDMENTS

The text of the amended proposed rules is as follows:

Paragraph (1) of Rule 1640-1-17-.01, Introduction, is amended by deleting the last sentence in its entirety, and substituting instead the following sentence “Persons receiving program awards who become public school teachers in Tennessee shall receive forgiveness of the program award balance based on one (1) year’s teaching service for each year an award was made.” so that as amended, paragraph (1) shall read:

- (1) These rules implement the Tennessee Teaching Scholars Program authorized by the Tennessee Teaching Scholars Act, T.C.A., Title 49, Chapter 4, Section 212 in Public Chapter 392 of the 1995 Public Acts, hereinafter, referred to as the Act. The Act provided for a forgivable loan program for exemplary students who desire to enter the teaching force in Tennessee. Participation in the program is limited to college juniors, seniors, and post-baccalaureate candidates admitted to teacher education programs in Tennessee. Persons receiving program awards who become public school teachers in Tennessee shall receive forgiveness of the program award balance based on one (1) year’s teaching service for each year an award was made.

Authority: T.C.A. §§49-4-204 and 49-4-212.

Subparagraph (d) of Rule 1640-1-17-.02(1), General, is amended by deleting the language “the ten month contract period or its equivalent (two complete semesters of full-time teaching service)” and adding the words “two semesters of full-time teaching”, so that as amended, subparagraph (d) shall read:

- (d) “A full year of teaching service” shall be two semesters of full-time teaching.

Authority: T.C.A. §§49-4-204 and 49-4-212.

Subparagraph (a) of Rule 1640-1-17-.05(4), Loan Amount and Terms, is amended by replacing the language “low-performing “ and replacing it with “high priority”, so that as amended, subparagraph (a) shall read:

- (a) For each year of creditable full-time teaching service, as defined in these regulations, the recipient shall receive cancellation credit of one academic year's award (the equivalent of two semesters) toward repayment of the loan. If a recipient teaches in an eligible school that is high priority or on warning status as designated by the State Department of Education or the State Board of Education, the recipient's obligation will be cancelled at a rate of one and one-third ($1\frac{1}{3}$) of the total annual award.

Authority: T.C.A. §§49-4-204 and 49-4-212.

Subparagraph (e) of Rule 1640-1-17-.05-(4), Loan Amount and Terms, is amended by deleting the paragraph in its entirety and substituting instead the following paragraph, so that as amended, subparagraph (e) shall read:

- (e) Fractions of a year may be credited in one semester or one-half ($1/2$) year increments toward cancellation for recipients who begin or end full-time teaching in the middle of an academic year in a Tennessee public school. Cancellation credit will then be applied upon receipt of verification of the completion of such service.

Authority: T.C.A. §§49-4-204 and 49-4-212.

The proposed rules set out herein were properly filed in the Department of State on the 3rd day of February, 2005, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing will become effective on the 28th day of June, 2005. (02-03)

PUBLIC NECESSITY RULES

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

- 0940 - Department of Finance and Administration - Division of Mental Retardation Services - Public necessity rules relating to determining the funding mechanism/amounts to be paid to the Division's contractors who aid the mentally retarded in Tennessee, Chapter 0940-4-3 Methodology Utilized to Determine Payments to Service providers (Rate Structure), 2 T.A.R. (February 2005) - Filed January 25, 2005; effective through July 9, 2005. (01-20)
- 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)
- 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)
- 1640 - TN Student Assistance Corporation - Public necessity rules relative to the Tennessee Lottery Scholarship Program, chapter 1640-1-19 Tennessee Education Lottery Scholarship Program, 2 T.A.R. (February 2005) - Filed January 25, 2005; effective through July 9, 2005. (01-20)

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, 63-4-101, 63-4-106, 63-4-114, 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. (CDT) on the 26th day of April, 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 Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0260-2-.02 Scope of Practice, is amended by deleting subparagraph (4) (c) but not its parts and substituting instead the following language, so that as amended the new subparagraph (4) (c) but not its parts shall read:

- (4) (c) Any licensee or applicant intending to practice chiropractic acupuncture must hold a certification issued by the board authorizing such practice. To be eligible for that certification the licensee or applicant shall submit a Board-provided application along with the fee pursuant to Rule 0260-2-.06, and must comply with both of the following:

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

Rule 0260-2-.05 Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (j) and (2) (g) and renumbering the remaining subparagraphs accordingly:

- (1) (j) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

Rule 0260-2-.06 Fees, is amended by adding the following adding the following language as new subparagraph (1) (g) and is further amended by adding the following language as new subparagraph (4) (g) and renumbering the present subparagraph (4) (g) as (4) (h), so that as amended, the new subparagraphs (1) (g) and (4) (g) shall read:

- (1) (g) Acupuncture Certification fee - To be paid by all individuals at the time application for certification in acupuncture is requested.
- (4) (g) Acupuncture Certification \$ 25.00

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

Rule 0260-3-.05 Procedures for Certification, is amended by adding the following language as new subparagraph (1) (g):

- (1) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

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

Rule 0260-5-.05 Procedures for Certification, is amended by adding the following language as new subparagraphs (1) (g), (2) (m), and (3) (f):

- (1) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.
- (2) (m) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.
- (3) (f) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of February, 2005. (02-15)

BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-17-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 27th day of April, 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 1370-1-.05, Licensure Process, is amended by adding the following language as new subparagraph (1) (h) and renumbering the remaining subparagraph accordingly, and is further amended by adding the following language as new subparagraph (2) (j) and renumbering the remaining subparagraph accordingly, and is further amended by adding the following language as new subparagraph (3) (m) and renumbering the remaining subparagraphs accordingly:

- (1) (h) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (j) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (m) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of February, 2005.
(02-16)

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

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 19th day of April, 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 0450-1-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (n), (2) (g), and (3) (n) and renumbering the remaining subparagraphs accordingly:

- (1) (n) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (n) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

Rule 0450-2-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (n), (2) (g), (3) (n), and (4) (k) and renumbering the remaining subparagraphs accordingly:

- (1) (n) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

- (2) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (n) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (4) (k) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

Rule 0450-3-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (o), (2) (j), (3) (i), and (4) (h) and renumbering the remaining subparagraphs accordingly:

- (1) (o) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (j) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (i) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (4) (h) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of February, 2005.
(02-17)

**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 19th day of April, 2005.

Written comments will be included in the hearing records if received by the close of business on April 19, 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. Additionally, comments may be submitted via attachments through electronic mail until the close of business on April 19, 2005.

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 April 19, 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 Martin Smith at 615-532-0569. For complete copies of the text of the notice, please contact Martin Smith, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243.

SUBSTANCE OF PROPOSED RULE

**CHAPTER 1200-3-27
NITROGEN OXIDES**

NEW RULE

TABLE OF CONTENTS

1200-3-27-.09 Compliance Plans for NOx Emissions from Stationary Internal Combustion (IC) Engines

1200-3-27-.09 COMPLIANCE PLANS FOR NOX EMISSIONS FROM STATIONARY INTERNAL COMBUSTION (IC) ENGINES

- (1) For the purposes of this rule, the following definitions shall apply:
 - (a) "Affected Engine" means any stationary IC engine that is a Large NOx SIP Call Engine, or other stationary IC engine that is subject to NOx control under a compliance plan established pursuant to Paragraph (3) of this rule.

- (b) “Engine Seasonal NO_x 2007 Tonnage Reduction” means the year 2007 seasonal NO_x emissions reductions value (tons) for a Large NO_x SIP Call Engine which is calculated as the difference between the 2007 Ozone Season Base NO_x Emissions and the 2007 Ozone Season Budget NO_x Emissions contained in the NO_x SIP Call Engine Inventory.
 - (c) “Facility Seasonal NO_x 2007 Tonnage Reduction” means the total of the Engine Seasonal NO_x 2007 Tonnage Reductions attributable to all of an owner/operator’s Large NO_x SIP Call Engines.
 - (d) “Large NO_x SIP Call Engine” means a stationary IC engine identified and designated as “large” in the NO_x SIP Call Engine Inventory as emitting more than one ton of NO_x per average ozone season day in 1995.
 - (e) “NO_x SIP Call Engine Inventory” means the inventory of IC engines compiled by EPA as part of the NO_x SIP Call Rule, including the Technical Amendments (Federal Register/Vol. 65, No. 42/ March 2, 2000, Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone), and the adjustment of the 2007 Budget NO_x Control Efficiency to 82 percent for large gas-fired engines (Federal Register/Vol. 69, No. 77/April 21, 2004, Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules).
 - (f) “Past NO_x Emission Rate” means the emission rate of an Affected Engine in grams per brake horsepower-hour (g/bhp-hr) as determined by performance testing consistent with the requirements of 40 CFR part 60, Appendix A. Where such performance test data are not available, the Past NO_x Emission Rate may be determined by the Technical Secretary on a case-by-case basis using, for example, appropriate emission factors or data from the NO_x SIP Call Engine Inventory. For Large NO_x SIP Call Engines, the Past NO_x Emission Rate is the uncontrolled emission rate.
 - (g) “Projected Operating Hours” means the projected actual number of hours of operation per ozone season for an Affected Engine.
 - (h) “Projected NO_x Emission Rate” means the projected emission rate in g/bhp-hr after installation of controls on an Affected Engine.
 - (i) “Stationary internal combustion engine” means any internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and remains at a single site at a building, structure, facility, or installation for more than 12 consecutive months. Any engine (or engines) that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period.
- (2) The requirements of this rule apply to the owner or operator of any Large NO_x SIP Call Engine.
- (3) (a) After May 1, 2007, an owner or operator of a Large NO_x SIP Call Engine shall not operate the engine in the period May 1 through September 30 of 2007 and any subsequent year unless the owner or operator complies with the requirements of a compliance plan which meets the provisions listed below.
- 1. The compliance plan must be approved by the Technical Secretary.
 - 2. The compliance plan must demonstrate enforceable emission reductions from one or more stationary internal combustion engines equal to or higher than the Facility Seasonal NO_x 2007 Tonnage Reduction.

3. The compliance plan may cover some or all engines at an individual facility or at several facilities or at all facilities in Tennessee that are in control of the same owner/operator.
 4. The compliance plan must be submitted to the Technical Secretary by May 1, 2006.
 5. The compliance plan may include credit for decreases in NO_x emissions from Large NO_x SIP Call Engines in Tennessee due to NO_x control equipment. Credit may also be included for decreases in NO_x emissions from other engines in Tennessee due to NO_x control equipment not reflected in the 2007 Ozone Season Base NO_x Emissions in the NO_x SIP Call Engine Inventory.
 6. The compliance plan must include the following items:
 - (i) List of engines subject to the plan, including the engine's manufacturer, model, facility location address, and facility identification number.
 - (ii) The projected ozone season hours of operation for each engine and supporting documentation.
 - (iii) A description of the NO_x emissions control installed, or to be installed, on each engine and documentation to support the Projected NO_x Emission Rates.
 - (iv) The Past and Projected NO_x Emission Rates for each Affected Engine in g/bhp-hr.
 - (v) A numerical demonstration that the emission reductions obtained from all engines included under the plan will be equivalent to or greater than the owner/operator's Facility Seasonal NO_x 2007 Tonnage Reduction, based on the difference between the Past NO_x Emission Rate and the Projected NO_x Emission Rate multiplied by the Projected Operating Hours for each Affected Engine, and taking into account any credit under Part (3)(a)5. of this paragraph.
 - (vi) Provisions for monitoring, reporting and recordkeeping for each Affected Engine.
- (b) The Projected NO_x Emission Rate in g/bhp-hr for each Affected Engine must be included in a federally enforceable permit.
- (4) Any owner or operator subject to the requirements of Paragraph (3) shall comply with the following reporting, monitoring, and recordkeeping requirements:
 - (a) Monitoring requirements. Each Affected Engine subject to this rule shall comply with the following requirements.
 1. Complete an initial performance test consistent with the requirements of 40 CFR part 60, Appendix A, following installation of emission controls required to achieve the emission rate limit specified in Subparagraph (3)(b) of this rule.
 2. Perform periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of a source's compliance with the emission rate limit specified in Subparagraph (3)(b) of this rule. Such periodic monitoring may include either:
 - (i) Performance tests consistent with the requirements of 40 CFR part 60, Appendix A, or portable monitors using ASTM D6522-00;

- (ii) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance that each engine's emissions are consistent with the requirements of Paragraph (3) of this rule;
 - (iii) A predictive emissions measurement system that relies on automated data collection from instruments; or
 - (iv) A continuous emission monitoring system that complies with 40 CFR parts 60 or 75.
- (b) Recordkeeping Requirements.
1. Maintain all records necessary to demonstrate compliance with the requirements of this rule for a period of 2 calendar years at the plant at which the subject engine is located. The records shall be made available to the Technical Secretary and EPA upon request.
 2. For each engine subject to the requirements of this rule, the owner or operator shall maintain records of:
 - (i) Identification and location of each engine subject to the requirements of this rule.
 - (ii) Calendar date of record.
 - (iii) The number of hours the unit is operated during each ozone season compared to the Projected Operating Hours.
 - (iv) Type and quantity of fuel used.
 - (v) The results of all compliance tests.
- (c) Reporting requirements. Any owner or operator subject to the requirements of this rule shall submit results of all compliance tests to the Technical Secretary.

Authority: T.C.A. §§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 28th day of February, 2005.
(02-23)

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF REMEDIATION**

There will be a hearing conducted by the Division of Remediation on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. 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 at the Morgan County Courthouse, Conference Room, 419 North Kingston Avenue, Wartburg, Tennessee 37887 on April 19, 2005 at 6:00 p.m. (Eastern) Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

<u>Site Number</u>	<u>Site Name</u>
Morgan County (65)	
65-501	Melhorn Silver Recovery Petros, TN

Authority: T.C.A. §68-212-206(e) and §68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of February, 2005. (02-18)

**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. (CDST) on the 18th day of April, 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 1200-8-2
STANDARDS FOR PRESCRIBED CHILD CARE CENTERS**

**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**

AMENDMENTS

Rule 1200-8-2-.07, Building Standards, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The prescribed child care center must be constructed, arranged, and maintained to ensure the safety of the resident.
- (2) The condition of the physical plant and the overall prescribed child care center environment must be developed and maintained in such a manner that the safety and well-being of residents are assured.

- (3) For the purpose of life safety, prescribed child care centers are required to meet business occupancies and all new centers shall conform to the current addition of the Standard Building Code, the National Fire Protection Code (NFPA), and the National Electrical Code, as adopted by the Board for Licensing Health Care Facilities. All new and existing centers are subject to the requirements of the Americans with Disabilities Act (A.D.A.).
- (4) Flammable and combustible liquids such as gasoline, cleaning fluids, kerosene, turpentine, etc., shall be stored in safety containers and stored at least 16 feet from the building or stored in a U.L. approved/listed cabinet and ventilated as prescribed by code requirement or manufacturers' recommendation.
- (5) Mechanical
 - (a) Any changes in the central heating/cooling system shall be inspected and approved by an inspector agency authorized by the State Fire Marshal. Fireplaces shall be inspected by a qualified contractor.
 - (b) All units having a total of 2,000 cubic feet per minute (CFM) or greater in a zone shall shut down when the fire alarm panel is activated.
- (6) Electrical
 - (a) The electrical system, components, equipment and appliances shall be kept in good repair at all times.
 - (b) Knob and Tube wiring is prohibited.
 - (c) The use of extension cords and multiple plug adapters is prohibited except U.L. listed surge protection for computers and aquariums.
 - (d) Electrical cords shall not be run under rugs, carpet, through walls and doorways.
 - (e) Electrical cords shall not have splices.
 - (f) Electric circuit breaker panel boxes shall not have open slots exposing wiring.
 - (g) Circuit breakers shall be properly labeled.
 - (h) In all new centers or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
 - (i) The electrical system shall not be overloaded.
 - (j) Ground-Fault Circuit Interrupter (GFCI) are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc. and within six (6) feet of any laboratory.
- (7) Fire Alarm
 - (a) Manual pull stations shall be installed in paths of travel to exits and by each required exit.
 - (b) All alarm devices shall be connected to the fire alarm panel.

- (c) The fire alarm panel shall have auxiliary power such as batteries or generators.
- (d) All sprinkler systems are to be electrically supervised.
- (e) Structures with atriums, vertical openings or monumental stairs open to another floor must have their fire alarm system automatically transmit an alarm to the municipal fire department or to an agency acceptable to this department with equipment which meets NFPA signaling and standard building codes. Fire protection systems and smoke evacuation systems must be on emergency power.

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

Rule 1200-8-2-.08, Life Safety, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Any prescribed child care center which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The prescribed child care center shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (3) The prescribed child care center shall have a written emergency plan to document instructions to staff, upon employment, and residents, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.
- (9) Storage beneath any stair is prohibited.
- (10) Combustible finishes and furnishings shall not be used.

- (11) Open flame and portable space heaters shall not be permitted in the center. Cooking appliances other than microwave ovens shall not be allowed in sleeping rooms.
- (12) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.
- (13) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (14) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (15) Electrical cords shall not be run under rugs or carpets.
- (16) The electrical systems shall not be overloaded. Power strips shall be equipped with circuit breakers. Extension cords shall not be used.
- (17) Fire extinguishers, complying with NFPA 10, shall be provided and mounted to comply with NFPA 10 extinguisher in the kitchen area shall be a minimum of 2-A:10 B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (18) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays shall be provided wherever smoking is permitted. Smoking in bed is prohibited. The center shall have written policies and procedures for smoking within the center which shall designate a room or rooms to be used exclusively for residents who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (19) Trash and other combustible waste shall not be allowed to accumulate within and around the center and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.
- (20) All safety equipment shall be maintained in good repair and in a safe operating condition.
- (21) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or resident accessible areas.
- (22) Emergency telephone numbers shall be posted near a telephone accessible to the residents.

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

Rule 1200-8-18-.07, Building Standards, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The non-residential treatment facility must be constructed, arranged, and maintained to ensure the safety of the client.
- (2) The condition of the physical plant and the overall non-residential treatment facility environment must be developed and maintained in such a manner that the safety and well-being of clients are assured.

- (3) For the purpose of life safety, non-residential treatment facilities are required to meet business occupancies and all new facilities shall conform to the current addition of the Standard Building Code, the National Fire Protection Code (NFPA), and the National Electrical Code, as adopted by the Board for Licensing Health Care Facilities. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.).
- (4) Flammable and combustible liquids such as gasoline, cleaning fluids, kerosene, turpentine, etc., shall be stored in safety containers and stored at least 16 feet from the building or stored in a U.L. approved/listed cabinet and ventilated as prescribed by code requirement or manufacturers' recommendation.
- (5) Mechanical
 - (a) Any changes in the central heating/cooling system shall be inspected and approved by an inspector agency authorized by the State Fire Marshal. Fireplaces shall be inspected by a qualified contractor.
 - (b) All units having a total of 2,000 cubic feet per minute (CFM) or greater in a zone shall shut down when the fire alarm panel is activated.
- (6) Electrical
 - (a) The electrical system, components, equipment and appliances shall be kept in good repair at all times.
 - (b) Knob and Tube wiring is prohibited.
 - (c) The use of extension cords and multiple plug adapters is prohibited except U.L. listed surge protection for computers and aquariums.
 - (d) Electrical cords shall not be run under rugs, carpet, through walls and doorways.
 - (e) Electrical cords shall not have splices.
 - (f) Electric circuit breaker panel boxes shall not have open slots exposing wiring.
 - (g) Circuit breakers shall be properly labeled.
 - (h) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
 - (i) The electrical system shall not be overloaded.
 - (j) round-Fault Circuit Interrupter (GFCI) are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc. and within six (6) feet of any laboratory.
- (7) Fire Alarm
 - (a) Manual pull stations shall be installed in paths of travel to exits and by each required exit.
 - (b) All alarm devices shall be connected to the fire alarm panel.

- (c) The fire alarm panel shall have auxiliary power such as batteries or generators.
- (d) All sprinkler systems are to be electrically supervised.
- (e) Structures with atriums, vertical openings or monumental stairs open to another floor must have their fire alarm system automatically transmit an alarm to the municipal fire department or to an agency acceptable to this department with equipment which meets NFPA signaling and standard building codes. Fire protection systems and smoke evacuation systems must be on emergency power.

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

Rule 1200-8-18-.08, Life Safety, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Any non-residential treatment facility which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The non-residential treatment facility shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (3) The non-residential treatment facility shall have a written emergency plan to document instructions to staff, upon employment, and clients, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.
- (9) Storage beneath any stair is prohibited.
- (10) Combustible finishes and furnishings shall not be used.

- (11) Open flame and portable space heaters shall not be permitted in the facility. Cooking appliances other than microwave ovens shall not be allowed in sleeping rooms.
- (12) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.
- (13) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (14) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (15) Electrical cords shall not be run under rugs or carpets.
- (16) The electrical systems shall not be overloaded. Power strips shall be equipped with circuit breakers. Extension cords shall not be used.
- (17) Fire extinguishers, complying with NFPA 10, shall be provided and mounted to comply with NFPA 10 extinguisher in the kitchen area shall be a minimum of 2-A:10 B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (18) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays shall be provided wherever smoking is permitted. Smoking in bed is prohibited. The facility shall have written policies and procedures for smoking within the facility which shall designate a room or rooms to be used exclusively for clients who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (19) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.
- (20) All safety equipment shall be maintained in good repair and in a safe operating condition.
- (21) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or client accessible areas.
- (22) Emergency telephone numbers must be posted near a telephone accessible to the clients.

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

Rule 1200-8-19-.07, Building Standards, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The DUI facilities must be constructed, arranged, and maintained to ensure the safety of the client.
- (2) The condition of the physical plant and the overall DUI facility environment must be developed and maintained in such a manner that the safety and well-being of clients are assured.
- (3) For the purpose of life safety, alcohol and drug prevention facilities are required to meet business occupancies and all new facilities shall conform to the current addition of the Standard Building Code, the National

Fire Protection Code (NFPA), and the National Electrical Code, as adopted by the Board for Licensing Health Care Facilities. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.).

- (4) Flammable and combustible liquids such as gasoline, cleaning fluids, kerosene, turpentine, etc., shall be stored in safety containers and stored at least 16 feet from the building or stored in a U.L. approved/listed cabinet and ventilated as prescribed by code requirement or manufacturers' recommendation.
- (5) Mechanical
 - (a) Any changes in the central heating/cooling system shall be inspected and approved by an inspector agency authorized by the State Fire Marshal. Fireplaces shall be inspected by a qualified contractor.
 - (b) All units having a total of 2,000 cubic feet per minute (CFM) or greater in a zone shall shut down when the fire alarm panel is activated.
- (6) Electrical
 - (a) The electrical system, components, equipment and appliances shall be kept in good repair at all times.
 - (b) Knob and Tube wiring is prohibited.
 - (c) The use of extension cords and multiple plug adapters is prohibited except U.L. listed surge protection for computers and aquariums.
 - (d) Electrical cords shall not be run under rugs, carpet, through walls and doorways.
 - (e) Electrical cords shall not have splices.
 - (f) Electric circuit breaker panel boxes shall not have open slots exposing wiring.
 - (g) Circuit breakers shall be properly labeled.
 - (h) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
 - (i) The electrical system shall not be overloaded.
 - (j) Ground-Fault Circuit Interrupter (GFCI) are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc. and within six (6) feet of any laboratory.
- (7) Fire Alarm
 - (a) Manual pull stations shall be installed in paths of travel to exits and by each required exit.
 - (b) All alarm devices shall be connected to the fire alarm panel.
 - (c) The fire alarm panel shall have auxiliary power such as batteries or generators.

- (d) All sprinkler systems are to be electrically supervised.
- (e) Structures with atriums, vertical openings or monumental stairs open to another floor must have their fire alarm system automatically transmit an alarm to the municipal fire department or to an agency acceptable to this department with equipment which meets NFPA signaling and standard building codes. Fire protection systems and smoke evacuation systems must be on emergency power.

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

Rule 1200-8-19-.08, Life Safety, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Any DUI facility which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The DUI facility shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (3) The DUI facility shall have a written emergency plan to document instructions to staff, upon employment, and clients, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.
- (9) Storage beneath any stair is prohibited.
- (10) Combustible finishes and furnishings shall not be used.
- (11) Open flame and portable space heaters shall not be permitted in the facility. Cooking appliances other than microwave ovens shall not be allowed in sleeping rooms.

- (12) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.
- (13) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (14) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (15) Electrical cords shall not be run under rugs or carpets.
- (16) The electrical systems shall not be overloaded. Power strips shall be equipped with circuit breakers. Extension cords shall not be used.
- (17) Fire extinguishers, complying with NFPA 10, shall be provided and mounted to comply with NFPA 10 extinguisher in the kitchen area shall be a minimum of 2-A:10 B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (18) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays shall be provided wherever smoking is permitted. Smoking in bed is prohibited. The facility shall have written policies and procedures for smoking within the facility which shall designate a room or rooms to be used exclusively for clients who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (19) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.
- (20) All safety equipment shall be maintained in good repair and in a safe operating condition.
- (21) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or client accessible areas.
- (22) Emergency telephone numbers must be posted near a telephone accessible to the clients.

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

Rule 1200-8-20-.07, Building Standards, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The alcohol and drug prevention facility must be constructed, arranged, and maintained to ensure the safety of the client.
- (2) The condition of the physical plant and the overall alcohol and drug prevention facility environment must be developed and maintained in such a manner that the safety and well-being of clients are assured.
- (3) For the purpose of life safety, alcohol and drug prevention facilities are required to meet business occupancies and all new facilities shall conform to the current addition of the Standard Building Code, the National Fire Protection Code (NFPA), and the National Electrical Code, as adopted by the Board for Licensing Health Care Facilities. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.).

- (4) Flammable and combustible liquids such as gasoline, cleaning fluids, kerosene, turpentine, etc., shall be stored in safety containers and stored at least 16 feet from the building or stored in a U.L. approved/listed cabinet and ventilated as prescribed by code requirement or manufacturers' recommendation.
- (5) Mechanical
 - (a) Any changes in the central heating/cooling system shall be inspected and approved by an inspector agency authorized by the State Fire Marshal. Fireplaces shall be inspected by a qualified contractor.
 - (b) All units having a total of 2,000 cubic feet per minute (CFM) or greater in a zone shall shut down when the fire alarm panel is activated.
- (6) Electrical
 - (a) The electrical system, components, equipment and appliances shall be kept in good repair at all times.
 - (b) Knob and Tube wiring is prohibited.
 - (c) The use of extension cords and multiple plug adapters is prohibited except U.L. listed surge protection for computers and aquariums.
 - (d) Electrical cords shall not be run under rugs, carpet, through walls and doorways.
 - (e) Electrical cords shall not have splices.
 - (f) Electric circuit breaker panel boxes shall not have open slots exposing wiring.
 - (g) Circuit breakers shall be properly labeled.
 - (h) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
 - (i) The electrical system shall not be overloaded.
 - (j) Ground-Fault Circuit Interrupter (GFCI) are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc. and within six (6) feet of any laboratory.
- (7) Fire Alarm
 - (a) Manual pull stations shall be installed in paths of travel to exits and by each required exit.
 - (b) All alarm devices shall be connected to the fire alarm panel.
 - (c) The fire alarm panel shall have auxiliary power such as batteries or generators.
 - (d) All sprinkler systems are to be electrically supervised.
 - (e) Structures with atriums, vertical openings or monumental stairs open to another floor must have their fire alarm system automatically transmit an alarm to the municipal fire department or to an

agency acceptable to this department with equipment which meets NFPA signaling and standard building codes. Fire protection systems and smoke evacuation systems must be on emergency power.

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

Rule 1200-8-20-.08, Life Safety, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Any alcohol and drug prevention facility which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The alcohol and drug facility shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (3) The alcohol and drug facility shall have a written emergency plan to document instructions to staff, upon employment, and clients, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.
- (9) Storage beneath any stair is prohibited.
- (10) Combustible finishes and furnishings shall not be used.
- (11) Open flame and portable space heaters shall not be permitted in the facility. Cooking appliances other than microwave ovens shall not be allowed in sleeping rooms.
- (12) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.

- (13) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (14) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (15) Electrical cords shall not be run under rugs or carpets.
- (16) The electrical systems shall not be overloaded. Power strips shall be equipped with circuit breakers. Extension cords shall not be used.
- (17) Fire extinguishers, complying with NFPA 10, shall be provided and mounted to comply with NFPA 10 extinguisher in the kitchen area shall be a minimum of 2-A:10 B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (18) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays shall be provided wherever smoking is permitted. Smoking in bed is prohibited. The facility shall have written policies and procedures for smoking within the facility which shall designate a room or rooms to be used exclusively for clients who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (19) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.
- (20) All safety equipment shall be maintained in good repair and in a safe operating condition.
- (21) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or client accessible areas.
- (22) Emergency telephone numbers must be posted near a telephone accessible to the clients.

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 1200-8-21-.08, Building Standards, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The non-residential narcotic treatment facility must be constructed, arranged, and maintained to ensure the safety of the client.
- (2) The condition of the physical plant and the overall non-residential narcotic treatment facility environment must be developed and maintained in such a manner that the safety and well-being of clients are assured.
- (3) For the purpose of life safety, non-residential narcotic treatment facilities are required to meet business occupancies and all new facilities shall conform to the current addition of the Standard Building Code, the National Fire Protection Code (NFPA), and the National Electrical Code, as adopted by the Board for Licensing Health Care Facilities. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.).

- (4) Flammable and combustible liquids such as gasoline, cleaning fluids, kerosene, turpentine, etc., shall be stored in safety containers and stored at least 16 feet from the building or stored in a U.L. approved/listed cabinet and ventilated as prescribed by code requirement or manufacturers' recommendation.
- (5) Mechanical
 - (a) Any changes in the central heating/cooling system shall be inspected and approved by an inspector agency authorized by the State Fire Marshal. Fireplaces shall be inspected by a qualified contractor.
 - (b) All units having a total of 2,000 cubic feet per minute (CFM) or greater in a zone shall shut down when the fire alarm panel is activated.
- (6) Electrical
 - (a) The electrical system, components, equipment and appliances shall be kept in good repair at all times.
 - (b) Knob and Tube wiring is prohibited.
 - (c) The use of extension cords and multiple plug adapters is prohibited except U.L. listed surge protection for computers and aquariums.
 - (d) Electrical cords shall not be run under rugs, carpet, through walls and doorways.
 - (e) Electrical cords shall not have splices.
 - (f) Electric circuit breaker panel boxes shall not have open slots exposing wiring.
 - (g) Circuit breakers shall be properly labeled.
 - (h) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
 - (i) The electrical system shall not be overloaded.
 - (j) Ground-Fault Circuit Interrupter (GFCI) are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc. and within six (6) feet of any laboratory.
- (7) Fire Alarm
 - (a) Manual pull stations shall be installed in paths of travel to exits and by each required exit.
 - (b) All alarm devices shall be connected to the fire alarm panel.
 - (c) The fire alarm panel shall have auxiliary power such as batteries or generators.
 - (d) All sprinkler systems are to be electrically supervised.

- (e) Structures with atriums, vertical openings or monumental stairs open to another floor must have their fire alarm system automatically transmit an alarm to the municipal fire department or to an agency acceptable to this department with equipment which meets NFPA signaling and standard building codes. Fire protection systems and smoke evacuation systems must be on emergency power.

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

Rule 1200-8-21-.09, Life Safety, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Any non-residential narcotic treatment facility which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The non-residential narcotic treatment facility shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (3) The non-residential narcotic treatment facility shall have a written emergency plan to document instructions to staff, upon employment, and clients, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.
- (9) Storage beneath any stair is prohibited.
- (10) Combustible finishes and furnishings shall not be used.
- (11) Open flame and portable space heaters shall not be permitted in the facility. Cooking appliances other than microwave ovens shall not be allowed in sleeping rooms.
- (12) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.

- (13) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (14) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (15) Electrical cords shall not be run under rugs or carpets.
- (16) The electrical systems shall not be overloaded. Power strips shall be equipped with circuit breakers. Extension cords shall not be used.
- (17) Fire extinguishers, complying with NFPA 10, shall be provided and mounted to comply with NFPA 10 extinguisher in the kitchen area shall be a minimum of 2-A:10 B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (18) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays shall be provided wherever smoking is permitted. Smoking in bed is prohibited. The facility shall have written policies and procedures for smoking within the facility which shall designate a room or rooms to be used exclusively for clients who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (19) Trash and other combustible waste shall not be allowed to accumulate within and around the facility and shall be stored in appropriate containers with tight-fitting lids. Trash containers shall be UL approved.
- (20) All safety equipment shall be maintained in good repair and in a safe operating condition.
- (21) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or client accessible areas.
- (22) Emergency telephone numbers shall be posted near a telephone accessible to the clients.

Authority: T.C.A. §§4-5-202 through 4-5-206, 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 3rd day of February, 2005.
(02-04)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Licensure Rules for Child Care Centers Serving Pre-School Children. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 2, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 3, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Wednesday, May 4, 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) 313-5560 (TDD)-(615) 532-8569.

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

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

CHAPTER 1240-4-3

LICENSURE RULES FOR CHILD CARE CENTERS SERVING PRE-SCHOOL CHILDREN

AMENDMENTS

Paragraph (2) of Rule, 1240-4-3-.10, Transportation, is amended by adding the following as a new subparagraph (g) and by re-designating existing subparagraphs accordingly and by re-designating internal references to such subparagraphs in Chapter 1240-4-3 accordingly:

(g) Vehicle Monitoring Devices

1. Beginning May 1, 2005 all vehicles used by or on behalf of the agency for transportation of children that are designed to transport six (6) or more passengers must be equipped with a child safety monitoring device approved by the Department which prompts staff to inspect the vehicle for children before an alarm sounds; provided, however, that such device shall not be required:
 - (i) On vehicles in which all the children being transported are five (5) years of age and in kindergarten, or older, unless any of the children are developmentally or physically disabled or non-ambulatory, or

(ii) On vehicles used exclusively for occasional field trips.

2. Only devices approved by the Department are authorized for use on such a vehicle.

Authority: TCA §§ 4-5-201 et seq; TCA 71-1-105; 71-3-501 et seq; 71-3-502(d)(7)(C)(iii).

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2005. (02-26)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Licensure Rules for Child Care Centers Serving School-Age Children. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 2, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 3, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Wednesday, May 4, 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) 313-5560 (TDD)-(615) 532-8569.

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

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

CHAPTER 1240-4-6
LICENSURE RULES FOR CHILD CARE CENTERS SERVING SCHOOL-AGE CHILDREN

AMENDMENTS**

Paragraph (2) of Rule, 1240-4-6-.10, Transportation, is amended by adding the following as a new subparagraph (g) and by re-designating existing subparagraphs accordingly and by re-designating internal references to such subparagraphs in Chapter 1240-4-6 accordingly:

(g) Vehicle Monitoring Devices

1. Beginning May 1, 2005 all vehicles used by or on behalf of the agency for transportation of children that are designed to transport six (6) or more passengers must be equipped with a child safety monitoring device approved by the Department which prompts staff to inspect the vehicle for children before an alarm sounds; provided, however, that such device shall not be required:
 - (i) On vehicles in which all the children being transported are five (5) years of age and in kindergarten, or older, unless any of the children are developmentally or physically disabled or non-ambulatory, or
 - (ii) On vehicles used exclusively for occasional field trips.
2. Only devices approved by the Department are authorized for use on such a vehicle.

Authority: *T.C.A. §§ 4-5-201 et seq; TCA 71-1-105; 71-3-501 et seq; 71-3-502(d)(7)(C)(iii).*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2005. (02-27)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the following locations: Washington County Department of Human Services Conference Room, 103 East Walnut Street, Johnson City, Tennessee, at 6:30 PM Eastern Time on Monday April 18, 2005; Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Tuesday, April 19, 2005; Chattanooga State Office Building Auditorium, 540 McCallie Avenue, Chattanooga, Tennessee, at 6:30 PM Eastern Time on Wednesday, April 20, 2005; Putnam County Department of Human Services Conference Room, 269-E South Willow Avenue, Cookeville, Tennessee, at 6:30 PM Central Time on Thursday April 21, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Monday, April 25, 2005; Maury County Department of Human Services Conference Room, 1400 College Park Drive, Suite B, Columbia, Tennessee, at 6:30 PM Central Time on Tuesday April 26, 2005; Madison County Department of Human Services Conference Room, 1124 Whitehall Street, Suite E, Jackson, Tennessee, at 6:30 PM Central Time on Wednesday, April 27, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Thursday, April 28, 2005; Obion County Department of Human Services Conference Room at 1416 Stad Avenue Union City, TN 38261 at 6:30 PM Central Time on Friday April 29, 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 meeting date or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Fran McKinney, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563, (TTY)- (800) 270-1349.

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

**SUBSTANCE OF PROPOSED RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
CHILD SUPPORT SERVICES DIVISION**

**CHAPTER 1240-2-3
MISCELLANEOUS IV-D**

Amendments

Rule 1240-2-3-.02 Federal Tax Refund Intercept Program is amended by deleting paragraphs (1) and (2) in their entireties and by substituting the following language, so that, as amended, paragraph (1) and (2) shall read as follows:

- (1) Definitions.
 - (a) "Support" — A legally enforceable obligation, determined under a court order or an order of an administrative process established under state law, against an individual for the support of a child, or for the support of a former spouse who is living with the child or children for whom the individual also owes support.
 - (b) "Past-due Support" — Support as defined in subparagraph (1)(a) above that has not been paid as ordered.
- (2) In order for a past-due support obligation to qualify for a federal tax refund intercept, the following requirements must be met:
 - (a) When past-due support is owed in a case in which there has been an assignment to the state making the request for offset of support rights under Tennessee Code Annotated § 71-3-124 or 42 U.S.C. § 671(a)(17);
 1. The amount of past-due support must be at least one hundred fifty dollars (\$150).
 2. For purposes of complying with part (a)1, the state may combine assigned support amounts from the same obligor in multiple cases to reach one hundred fifty dollars (\$150). Amounts under this subparagraph may not be combined with amounts that have accrued under subparagraph (b) in order to reach one hundred fifty dollars (\$150); or
 - (b) When past-due support is owed in a case in which an application for IV-D services has been filed with the IV-D Agency, but in which there has been no assignment of support rights pursuant to subparagraph (a);
 1. The amount of past-due support must be at least five hundred dollars (\$500); and
 2. The support must be owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

3. For purposes of complying with part (b)1, the state may combine support amounts from the same obligor in multiple cases where the IV-D agency is providing IV-D services to reach five hundred dollars (\$500). Amounts under this subparagraph may not be combined with amounts that have accrued under subparagraph (a) in order to reach five hundred dollars (\$500); and
- (c) The Department has in its records:
1. A copy of the order and any modifications upon which the amount referred is based which specify the date of issuance and amount of support; and
 2. A copy of the payment record, or, if there is no payment record, an affidavit signed by the custodial parent attesting to the amount of support owed; and
 3. In non-title IV-A cases in which support rights have not been assigned under subparagraph (a), the obligee parent's current address; and
- (d) Before submittal to the federal Office of Child Support Enforcement, the Department has verified the accuracy of the name and social security number of the obligor and the accuracy of the amount of past-due support. If the Department has previously verified this information, it need not reverify it.

Authority: *T.C.A. §§ 4-5-201 et seq., 8-21-403, 36-5-116; 42 U.S.C. §§ 654b, 666, and 671; and 45 C.F.R. § 303.72..*

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2005. (02-24)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the following locations: Washington County Department of Human Services Conference Room, 103 East Walnut Street, Johnson City, Tennessee, at 6:30 PM Eastern Time on Monday April 18, 2005; Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Tuesday, April 19, 2005; Chattanooga State Office Building Auditorium, 540 McCallie Avenue, Chattanooga, Tennessee, at 6:30 PM Eastern Time on Wednesday, April 20, 2005; Putnam County Department of Human Services Conference Room, 269-E South Willow Avenue, Cookeville, Tennessee, at 6:30 PM Central Time on Thursday April 21, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Monday, April 25, 2005; Maury County Department of Human Services Conference Room, 1400 College Park Drive, Suite B, Columbia, Tennessee, at 6:30 PM Central Time on Tuesday April 26, 2005; Madison County Department of Human Services Conference Room, 1124 Whitehall Street, Suite E, Jackson, Tennessee, at 6:30 PM Central Time on Wednesday, April 27, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Thursday, April 28, 2005; Obion County Department of Human Services' Conference Room at 1416 Stad Avenue Union City, TN 38261 at 6:30 PM Central Time on Friday April 29, 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 meeting date or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Fran McKinney, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563, (TTY)- (800) 270-1349.

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

**SUBSTANCE OF PROPOSED RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
CHILD SUPPORT SERVICES DIVISION**

**1240-2-4
CHILD SUPPORT GUIDELINES**

AMENDMENTS

Rule 1240-2-4-.03, The Income Shares Model, is amended by deleting part 6 of subparagraph (a) of paragraph (6) in its entirety and by substituting instead the following language so that, as amended, part 6 shall read as follows:

6. If each parent spends exactly fifty percent (50%) of the time with the child, the child support obligation shall be calculated according to the rules for standard parenting, with both parents using parenting time adjustments, from the beginning of the Child Support Worksheet through calculation of each parent's adjusted support obligation on Line 13 of the Worksheet. When calculating the PCSO, the lesser obligation from Line 15 shall be subtracted from the greater obligation. The difference shall be the presumptive obligation, which is entered on Line 16 of the Worksheet, to be paid by the parent with the greater obligation, regardless of that parent's designation for the purposes of T.C.A. § 36-6-402.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12), (16); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

Rule 1240-2-4-.04, Determination of Child Support, is amended by deleting subparagraph (d) of paragraph (8) in its entirety and by substituting instead the following language so that, as amended, subparagraph (d) shall read as follows:

- (d) Calculations for Additional Expenses.
 1. The amounts paid by each parent, whether directly or through payroll deduction, for the child's health insurance premium and/or work-related childcare costs shall be entered on the Child Support Worksheet to be used in calculating total additional expenses and each parent's ASO.
 2. Each parent's pro rata share of the additional expenses shall be determined by multiplying the PI of each parent by the combined total additional expenses.

3. Adjusted Support Obligation (ASO).
 - (i) In standard parenting situations, the ASO is the parent's share of the BCSO plus the parent's share of any additional expense for the child's health insurance premium and/or work-related childcare; or
 - (ii) In split parenting situations, the ASO is each parent's BCSO for the children in the other parent's care plus each parent's share of any additional expense for the children's health insurance premium and/or work-related childcare.
 - (iii) If a parenting time adjustment has been calculated in any case, that parent's share of the BCSO is adjusted as specified in subparagraph 1240-2-4-.03(6)(e), then each parent's ASO is calculated as indicated above in either subpart (i) or (ii).
4. Adjustment to ASO for Payment of Additional Expenses.
 - (i) Standard Parenting.

In cases where a parent is paying directly or through payroll deduction the child's health insurance premium or paying through payroll deduction work-related child care costs, the parent is entitled to an adjustment in the child support obligation to account for the payment of these expenses, as specified in 1240-2-4-.08(2)(e)8(i).
 - (ii) Split Parenting and 50/50 Parenting.

In split parenting cases and in cases where parenting time is divided on a 50/50 basis, the provisions of 1240-2-4-.08(2)(e)8(ii) shall be applied to determine which parent is responsible for paying child support to the other parent, which parent is responsible for paying any non-payroll deducted childcare, and to adjust the ASO to account for amounts not owed to the other parent as child support but to a third party for either the health insurance premium or work-related child care.
 - (iii) If the health insurance premium is being paid by a parent and/or the work-related child care is being paid by a parent through payroll deduction, the payment shall be reflected in the child support order to identify the amount and nature of the obligation, but shall not be included in the ARP's income assignment. The order shall require that these expenses continue to be paid in the same manner as they were being paid prior to the instant action.
 - (iv) To the extent that work-related childcare expenses are not paid through payroll deduction, the expense shall be accounted for in the ARP's income assignment as part of the child support order. The PRP is then expected to pay this expense in full out of his/her income and the child support award since the ARP's pro rata share of the expense will be included in the income assignment resulting from the child support order.

Authority: T.C.A. §§ 4-5-208; 36-5-101(a)(1) and (e); 36-5-103(f); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56; 303.8.

Rule 1240-2-4-.08, Worksheets and Instructions, is amended by deleting subparagraph (e) of paragraph (2) in its entirety and by substituting the following language so that, as amended, subparagraph (e) shall read as follows:

(e) Part V – Adjustments for Additional Expenses. [Rule 1240-2-4-.04(8)]

1. General Instructions.

- (i) This Part includes only health insurance premiums and work-related childcare expenses.
- (ii) If expenses are not incurred regularly, a monthly amount shall be calculated by averaging the expense over a twelve (12) month period.
- (iii) Only amounts actually paid are included in the calculation. Payments that are made by a parent’s employer, but not deducted from the parent’s wages, shall not be included.
- (iv) Only the portion of the health insurance premium actually attributable to the children for whom support is being determined and actually paid by the parent is included. If the actual amount of the health insurance premium that is attributable to the child who is the subject of the current action for support is not available or cannot be verified, the total cost of the premium shall be divided by the number of persons covered by the policy to determine a per person cost. This amount is then multiplied by the number of children who are the subject of this action and are covered by the policy.

$$\begin{array}{cccccc}
 \$ \underline{\hspace{2cm}} & \div & \underline{\hspace{2cm}} & = & \$ \underline{\hspace{2cm}} & \times & \underline{\hspace{2cm}} & = & \underline{\hspace{2cm}} \\
 \text{Total} & & \text{No. of Persons} & & \text{Per Person} & & \text{No. of Children} & & \text{Child's Portion} \\
 \text{Premium} & & \text{Covered by Policy} & & \text{Cost} & & \text{Subject to Order} & & \text{of Premium}
 \end{array}$$

- (v) Additional expenses of a non-parent caretaker shall be included in calculating the amount of these expenses.

2. Line 11a – Children’s Portion of Health Insurance Premium. [Rule 1240-2-4-.04(8)(b)]

Enter on Line 11a in the column of the parent responsible for payment the amount that is, or will be, paid by a parent either directly or through payroll deduction for health insurance for the children for whom support is being determined.

3. Line 11b – Work-related Childcare Expenses – Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 11b enter in the column of the parent responsible for payment the amount of any work-related childcare expense paid by the parent through payroll deduction for the child for whom support is being determined.

4. Line 11c – Work-related Childcare Expenses – Non-Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 11c, enter in Column A and Column B the monthly amount of any work related childcare expense paid directly, but not any amounts paid by payroll deduction, by either parent for the child for whom support is being determined. In Column C of Line 11c, enter the total amount of any work-related childcare expense paid directly by both parents for the child for whom support is being determined.

5. Line 11d – Total Additional Expenses. [Rule 1240-2-4-.04(8)]

Total the amounts on Lines 11a and 11b, Columns A and B, and enter the totals on Line 11d. Add together the totals in Columns A and B from Line 11d with the amount in Column C from Line 11c to calculate the total amount of additional expenses and enter this total on Line 11d, Column C.

6. Line 12 – Each Parent’s Share of Additional Expenses. [Rule 1240-2-4-.04(8)]

Calculate each parent’s share of the additional expenses (both directly paid and paid by payroll deduction) by multiplying each parent’s percentage of income (PI) from Line 3 times the total additional expenses from Line 11d, Column C and enter amounts in the appropriate columns on Line 12. [Line 3, Column A, times Line 11d, Column C for the PRP’s (Mother’s) share; Line 3, Column B times Line 11d, Column C for the ARP’s (Father’s) share.]

7. Line 13 – Adjusted Support Obligation – BCSO plus parent’s share of additional expenses. [Rule 1240-2-4-.02(2) & .04(8)(d)]

Using one of the methods specified below, calculate the “Adjusted Support Obligation” by totaling each parent’s share of the “Basic Child Support Obligation” and each parent’s share of the “Additional Expenses” and enter the amount in the appropriate column on Line 13.

(i) Cases With No Parenting Time Adjustment.

(I) In standard parenting cases, add together Line 5 (the BCSO for each parent) and Line 12 (each parent’s share of the additional expenses) for each parent. Enter the result for each parent in the appropriate column on Line 13 as the ASO for each parent.

(II) In split parenting situations, add Line 6a and Line 12, Column A for the Mother (Mother’s share of obligation and additional expenses); add Line 6b and Line 12, Column B for the Father (Father’s share of the obligation and additional expenses). Enter the result for each parent in the appropriate column on Line 13 as the ASO for each parent.

(ii) Cases With a Parenting Time Adjustment.

If a parenting time adjustment has been calculated in any case, add together Line 10 and Line 12 for each parent (each parent’s adjusted BCSO and share of expenses). Enter the result for each parent in the appropriate column on Line 13.

8. Adjustment to the ASO for Payment of Additional Expenses. [Rule 1240-2-4-.04(8)(d)]

(i) Standard Parenting.

(I) Line 14 - Adjustments to the ASO for Payment of Additional Expenses.

Enter in the parent’s column on Line 14 (Adjustments to ASO for payment of additional expenses) the total amount of any health insurance premium either directly paid or paid automatically through payroll deduction plus the amount of any work-related childcare expense paid automatically by the parent through payroll deduction.

(II) Line 15.

Adjusted Support Obligation) in Column A and in Column B and enter the remainder on Line 15, Columns A and B in order to credit the parent for the amount of any health insurance premium paid or for the amount of any work-related childcare paid automatically through payroll deduction. The child support order must include the amount of the deduction for these expenses and identify the nature of the obligation. The order shall require that these expenses continue to be paid. (For example, deduction of \$100 monthly for ARP's payment to XYZ Insurance Company for the child's health insurance. ARP shall continue to pay XYZ Insurance Company, or the subsequent health insurance company, for the child's health insurance.) If the childcare expense is not paid through payroll deduction, the ARP's portion of the expense shall be included in the income assignment resulting from the child support order, and the full amount of the expense shall be paid by the PRP through his/her income and the child support award.

(ii) Split Parenting and 50/50 Parenting.

(I) To determine which parent will pay support to the other parent –

I. Calculate the amount of support the Mother actually owes to the Father rather than to a third party for payment of an additional expense. This amount is the Mother's ASO reduced by her pro-rata share of the health insurance premium being paid by her (from Line 11a, Column A), whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction (from Line 11b, Column A). [Multiply Line 11d, Column A (Mother's total expenses), times Line 3, Column A (Mother's PI), and subtract the result from Line 13, Column A-Mother's ASO]. The result of this calculation will not be entered or displayed on the Worksheet, but is contained in the automated calculator; and

II. Calculate the amount of support the Father actually owes to the Mother rather than to a third party for payment of an additional expense. This amount is the Father's ASO reduced by his pro-rata share of the health insurance premium being paid by him (from Line 11a, Column B), whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction (from Line 11b, Column B). [Multiply Line 11d, Column B (Father's total expenses), times Line 3, Column B (Father's PI), and subtract the result from Line 13, Column B-Father's ASO]. The result of this calculation will not be entered or displayed on the Worksheet but is contained in the automated calculator; and

III. The amounts calculated in sub-items I and II above are not entered or displayed on the Worksheet but are used as indicated in items (II) and (III) below to determine which parent will be responsible for payment of the presumptive child support obligation and/or which parent will be responsible for the payment of any non-payroll-deducted childcare expense.

(II) If the result from sub-item (I)I above is greater than the result from sub-item (I)II above (i.e. - the Mother owes more money to the Father than the Father owes to the Mother), then –

- I. The Mother will pay support to the Father and the Father will be required to pay the full amount of any non-payroll deducted childcare expense out of his income and the child support award;
 - II. The Mother's ASO on Line 13 shall be reduced by her pro-rata share of the health insurance premium being paid by her, whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction.
 - A. The amount of this reduction to the Mother's ASO is the result of multiplying Line 11d, Column A by Line 3, Column A (Mother's total expenses by Mother's PI).
 - B. Enter this amount on Line 14, Column A;
 - III. The Father's ASO on Line 13 shall be reduced by his pro-rata share of the health insurance premium being paid by him, whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction plus his pro-rata share of any non-payroll deducted childcare.
 - A. The amount of the reduction to the Father's ASO is the result of the following: Line 11d, Column B plus Line 11c, Column C times Line 3, Column B.
 - B. Enter this amount on Line 14, Column B.
- (III) If the result from section (I)II above is greater than the result from section (I)I above (i.e. - the Father owes more money to the Mother than the Mother owes to the Father), then –
- I. The Father will pay support to the Mother and the Mother will be required to pay the full amount of any non-payroll deducted childcare expense out of her income and the child support award.
 - II. The Father's ASO on Line 13 shall be reduced by his pro-rata share of the health insurance premium being paid by him, whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction.
 - A. The amount of the reduction to the Father's ASO is the result of multiplying Line 11d, Column B by Line 3, Column B.
 - B. Enter this amount on Line 14, Column B.
 - III. The Mother's ASO on Line 13 shall be reduced by her pro-rata share of the health insurance premium being paid by her, whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction plus her pro-rata share of any non-payroll deducted child care.

- A. The amount of this reduction to the Mother's ASO is the result of the following: Line 11d, Column A plus Line 11c, Column C times Line 3, Column A.
- B. Enter this amount on Line 14, Column A.

(IV) Line 15.

Subtract Line 14 from Line 13 in Column A and in Column B and enter the remainder on Line 15, Columns A and B to credit each parent's ASO for his/her pro-rata share of additional expenses paid by the parent to third parties. The child support order must reflect these payments by identifying the amount and nature of the obligation. The order shall require that these expenses continue to be paid, whether directly or through payroll deduction.

- (V) If upon application of amounts entered on Line 18 (uninsured medical expenses) or Line 19 (deviations) the parent who was found to be responsible for payment of the PCSO (Line 16) is now different from the parent who becomes responsible for payment of the FCSO (Line 20) due to any additional calculations for uninsured medical expenses and/or deviations, then there must be a corresponding change in the parent who is responsible for payment of the non-payroll-deducted childcare (i.e. – the parent receiving the support indicated on Line 20 will become the parent responsible for payment of the non-payroll-deducted childcare). To adjust for these changes in financial responsibility, the total amount of any non-payroll-deducted childcare entered on Line 11c, Column C shall be added to the paying parent's support obligation on Line 20 (FCSO).

Authority: T.C.A. §§4-5-208; 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56; 303.8.

Rule 1240-2-4-.05, Modification of Child Support Orders, is amended by adding a new paragraph (8) which shall read as follows:

- (8) Modification of Orders in Split Parenting Cases and Cases Where Parenting Time is Divided on a 50/50 Basis.
 - (a) If an order was established or modified under the Income Shares guidelines as implemented on January 18, 2005, the order may be modified without compliance with the significant variance requirement, using the provisions of Rule 1240-2-4-.08(2)(e)8(ii) as implemented through emergency rules, only for the purpose of correcting the calculation error resulting from application of the rules implemented on January 18, 2005, to a split parenting case or a case in which parenting time is divided on a 50/50 basis.
 - (b) Any arrears which may have accumulated under any such order as originally established or modified under the Income Shares guidelines may be recalculated consistent with the amount of the child support obligation as modified pursuant to this Emergency Rule 1240-2-4-.08(2)(e)8(ii).

Authority: T.C.A. §§ 4-5-202; 36-5-101(a)(1) and (e); 36-5-103(f); 71-1-105(12),(16); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56, 303.8.

Rule 1240-2-4-.08, Worksheets and Instructions, is amended by deleting paragraph (4) in its entirety and by substituting instead the following:

(4) Child Support Worksheet.

State of Tennessee – Child Support Worksheet

Part I. Identification

Indicate the status of each parent or caretaker by placing an "X" in the appropriate column

Name of Mother:	_____	PRP	ARP	SPLIT
Name of Father:	_____			
Name of non-parent Caretaker:	_____			
TCSES case #:	_____			
Docket #:	_____			
Court name:	_____			

Name(s) of Child(ren)	Date of Birth	Days with Mother	Days with Father	Days with Caretaker

Part II. Basic Support Obligation

- ✓ For clarity and consistency, use Column A for PRP information and Column B for ARP information
 - ✓ For Split Parenting, use Column A for Mother's information and Column B for Father's information
- Use Credit Worksheet to calculate line items 1b – 1d
- 1 Monthly Gross Income
 - 1a Self-employment tax paid
 - 1b Credit for pre-existing support orders
 - 1c Credit for In Home Children
 - 1d Credit for Not In Home Children
 - 2 Adjusted Gross Income (AGI)
 - 3 Percentage Share of Income (PI)
 - 4 Basic Child Support Obligation (BCSO)

Column A	Column B	Column C
\$	\$	
-	-	
-	-	
-	-	
-	-	
\$	\$	\$
%	%	%
		\$

Part III. Parents' Share of Support Obligation

- Standard Parenting
- 5 Each parent's share of the BCSO
- Split Parenting
- 6a Mother's obligation for children for whom father is the PRP
 - 6b Father's obligation for children for whom mother is the PRP

\$	\$	
\$		
	\$	

Part IV. Parenting Time Adjustment

- 7a Number of days per calendar year with children supported by this order with whom the ARP spends 121 or more days per calendar year
- 7b Parenting time adjustment percentage
- 8a Number of days per calendar year with children supported by this order with whom the ARP spends 53 or fewer days per calendar year
- 8b Parenting time adjustment percentage
- 9 Reduction in ARP's support obligation for parenting time
- 10 Each parent's share of the adjusted BCSO

%	%	
%	%	
\$	\$	
\$	\$	

State of Tennessee – Child Support Worksheet

Part V. Additional Expenses

	Column A	Column B	Column C
11a Children’s portion of health insurance premium	\$	\$	
11b Work-related childcare (payroll-deducted)	\$	\$	
11c Work-related childcare (non-payroll-deducted)	\$	\$	\$
11d Total expenses	\$	\$	\$
12 Each parent's share of Additional Expenses	\$	\$	
13 Adjusted Support Obligation (ASO)	\$	\$	
14 Adjustment to ASO for payment of Additional Expenses	-	-	
15 Subtract line 14 from line 13. Enter remainder.	\$	\$	

Part VI. Presumptive Child Support / Modification of Current Support

		Obligation Column
16	Presumptive Child Support Order (PCSO) The ARP’s amount from Line 15* * For split and 50/50 parenting, enter the difference between the greater and smaller numbers from Line 15	\$
Modification of Current Child Support Order	17a Current child support order amount for the payor parent	\$
	17b Amount required for significant variance to exist	\$
	17c Actual variance between current and presumptive child support orders	\$

Part VII. Uninsured Medical Expenses, Deviations, Final Child Support Order

18	Uninsured medical expenses (Recurring):	\$
Deviations must be substantiated by written findings in the Child Support Order	19 Deviations (Specify):	\$

20	Final Child Support Order	\$

Comments, Calculations, or Rebuttals to Schedule

Place an “X” in the appropriate blank

Has the tribunal identified a parent as a low-income provider? Yes _____ No _____

Preparer’s Use Only

Name: _____ Date: _____

Title: _____

IV-D Use Only

21a	Child Support Obligation	\$
21b	Medical Support Obligation	\$

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2005. (02-25)

TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-18-111. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 25th day of April, 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

Chapter 0870-1, General Rules Governing Licensed Massage Therapists and Establishments, is amended by deleting from the language of this chapter all references to T.C.A. §§ 63-18-201 through 63-18-214 and substituting instead references to T.C.A. §§ 63-18-101 through 63-18-114, and is further amended by deleting from each rule's statutory authority citations all references to T.C.A. §§ 63-18-201 through 63-18-214 and substituting instead references to T.C.A. §§63-18-101 through 63-18-114.

Authority: *T.C.A. §§4-5-202, 4-5-204, and 63-18-111.*

Rule 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by deleting part (2) (b) 2. in its entirety and substituting instead the following language, and is further amended by renumbering the present subpart (2) (b) 2. (i) and the present part (2) (b) 3. as parts (2) (b) 3. and (2) (b) 4., so that as amended, the new part (2) (b) 2. shall read:

- (2) (b) 2. A license issued to an individual who owns a massage establishment is not transferable and is subject to revocation or other disciplinary actions upon failure of any inspection or for refusal to allow inspection by the Board's authorized representatives.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-18-105, 63-18-108, and 63-18-111.*

Rule 0870-1-.04, Licensure and Provisional Licensure Process, is amended by adding the following language as new subparagraph (1) (i) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting parts (2) (a) 1. and (2) (d) 2. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (i) and the new parts (2) (a) 1. and (2) (d) 2. shall read:

- (1) (i) An applicant shall cause to be submitted to the Board's Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (a) 1. Complied with all provisions of paragraph (1) except subparagraphs (1) (f) and (1) (p);
- (2) (d) 2. Submit the fees required by subparagraph (1) (k) to the Board's Administrative Office;

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-104, 63-18-108, and 63-18-111.

Rule 0870-1-.05, Establishment Licensure Process, is amended by deleting adding the following language as new paragraph (9) and renumbering the remaining paragraphs accordingly:

- (9) An applicant shall cause to be submitted to the Board's Administrative Office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111.

Rule 0870-1-.12, Continuing Education, is amended by deleting subparagraph (4) (g) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (g) shall read:

- (4) (g) Each sponsor of a continuing education course must provide a certificate to each participant. Records maintained by the program sponsor for the purpose of verifying attendance and compliance of the continuing education obligation must have at least the following information: Licensee's name, license number, total number of continuing education clock hours awarded, name of sponsor, program title, and date(s).

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 63-18-111.

Rule 0870-1-.17, Advertising, is amended by deleting subparagraph (4) (p) but not its parts and substituting instead the following language, so that as amended, the new subparagraph (4) (p) but not its parts shall read:

- (4) (p) Failure to include the corporation, partnership or individual licensee's name in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, and 63-18-111.

NEW RULES

**CHAPTER 0870-2
GENERAL RULES GOVERNING MASSAGE THERAPY EDUCATIONAL PROGRAMS**

TABLE OF CONTENTS

0870-2-.01	Definitions	0870-2-.05	Minimum Standards for Directors, Instructors and Classrooms
0870-2-.02	Program Approval and Curriculum Requirements	0870-2-.06	Program Policies and Procedures
0870-2-.03	Withdrawal of Program Approval	0870-2-.07	Annual Report
0870-2-.04	Program Admission Requirements		

0870-2-.01 DEFINITIONS. As used in this chapter, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Board – Tennessee Massage Licensure Board
- (2) Program – any massage therapy program or school
- (3) THEC – Tennessee Higher Education Commission
- (4) NCETMB – National Certification Examination for Therapeutic Massage and Bodywork

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.*

0870-2-.02 PROGRAM APPROVAL AND CURRICULUM REQUIREMENTS.

- (1) Massage therapy programs must receive written approval from the Tennessee Massage Licensure Board.
- (2) Application Process
 - (a) Massage therapy programs seeking approval must submit an application which provides the following information a minimum of thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application,
 1. Name of parent institution and authority for operations;
 2. Authorization from the Tennessee Higher Education Commission (THEC). Proof of authorization must be submitted with the application;
 3. Location of principal clinical facilities;
 4. Locations of all satellite facilities;
 5. Names and license number of all licensed teaching staff and the director of the program;
 6. Curriculum vitae, including professional license numbers and description and explanation of any prior disciplinary action taken against a license, for all teaching staff, including the director;

7. Maximum class size;
 8. Submission of the program catalog; and
 9. Submission of other such information that the Board may deem necessary.
- (b) The program director shall appear before the Board as part of the initial approval process. The curriculum shall be presented at the meeting.
- (3) The Board-approved program shall adhere to the following minimum standards:
- (a) Instructor/student ratio shall be one (1) instructor to every ten (10) working students for any hands-on class;
 - (b) The program curriculum shall include, but not be limited to, the topics contained in the current NCBTMB examination, its successor and/or other approved examination, content outline at the time of admission of the student. The program shall, at a minimum, consist of five hundred (500) classroom hours and must contain:
 1. Two hundred (200) classroom hours of sciences including, but not limited to, anatomy, physiology-Western and/or/Eastern, kinesiology, pathology, HIV/AIDS, and blood—borne pathogens, and hygiene (including standard precautions). Other sciences related to the human body may be included with Board approval.
 2. Two hundred (200) classroom hours of basic massage theory and practice including, but not limited to, history, benefits, indications, contraindications, demonstration and supervised practice, client assessment/evaluation, soft tissue manipulations including: gliding, kneading, friction, compression, vibration, percussion, stretching, joint movements, draping, positioning, turning, feedback, charting/documentation, proper body mechanics, and selfcare.
 3. Eighty-five (85) classroom hours of the five hundred (500) classroom hour requirement shall consist of related subjects including, but not limited to, business standards of practice, communication skills, CPR/First Aid, the Americans with Disabilities Act, referral methods, specialized populations, and specialized and adjunct therapies/modalities (including hydrotherapy).
 4. Ten (10) classroom hours of the five hundred (500) classroom hour requirement shall consist of ethics courses.
 5. Five (5) classroom hours of the five hundred (500) classroom hour requirement shall consist of courses regarding Tennessee massage statutes and regulations.
 - (c) The program catalog, program syllabus, policies, procedures and the NCTMB handbook or brochure regarding the examination, its successor and/or other approved examination, current content outline and eligibility criteria, are to be distributed on or before the first (1st) class session.
 - (d) If books are provided by the program, the books on a particular subject shall be distributed prior to the class on that subject;
 - (e) The program must inform each student of the requirements for licensure and must specifically include the provisions regarding criminal convictions.

- (f) The program must have a written policy on the accepted pass-fail rates or grading system used by the program.
- (g) The program must have a written protocol or policy on the mechanism to evaluate a student's performance. At least one (1) evaluation is required within the first half of the program.
- (h) The program must have a written policy on the dismissal of students.
- (i) The program shall create and maintain records on each student, including official transcripts, in compliance with the rules of the Tennessee Higher Education Commission
- (j) Upon request, a copy of the transcript shall be provided to the student upon completion of or withdrawal from the program. The student must comply with the enrollment agreement to receive a copy.
- (k) The transcript shall include the following at a minimum:
 - 1. The program name;
 - 2. Name of the student;
 - 3. Subjects covered in the program;
 - 4. Grades for each subject;
 - 5. Signature of an authorized program/school official;
 - 6. Date issued;
 - 7. Date of graduation; and,
 - 8. Number of contact hours completed.
- (l) The Board shall be notified of any change in directorship and/or instructors within ten (10) days of hire or discharge. Documentation of the training and experience of any new hires must be received within ten (10) days of hire.
- (m) The Board shall be notified immediately of any changes made in the operation of the school such as a change of ownership, location, and/or approval status with THEC;
- (n) The program must inform the students of the requirements for licensure, specifically addressing the statutory provisions regarding criminal convictions;
- (o) Board approval and subsequent re-approvals shall be issued annually. Application for re-approvals shall meet all requirements of this rule;
- (p) At any time, designees of the Department of Health or other state agencies shall be provided full access to program materials, examinations, and the classroom during instruction. Failure to provide access pursuant to this provision may subject the provider to withdrawal of program approval.

- (q) A member of the Board or a Board designee may issue preliminary program approval subject to subsequent Board ratification.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.03 WITHDRAWAL OF PROGRAM APPROVAL. Program approval may be withdrawn if the Board finds the program in violation of any of its statutes or regulations or if the Board finds the program inadequate for certification purposes based upon random auditing of the program and/or its effectiveness in producing qualified graduates. The minimum standard for continued program approval shall be at least seventy percent (70%) of the students over at least a six (6) month period passing the licensure examinations on the first (1st) attempt.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.04 PROGRAM ADMISSION REQUIREMENTS.

- (1) Students must be at least eighteen (18) years old;
- (2) Students must have either a high school diploma or GED certificate;
- (3) Students must be legally entitled to live and work in the United States; and
- (4) Students may not have been convicted of the offense of prostitution or sexual misconduct.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.05 MINIMUM STANDARDS FOR DIRECTORS, INSTRUCTORS AND CLASSROOMS.

- (1) Program Director and Instructors
 - (a) Program Director – The program director of the massage therapy program must be currently licensed in Tennessee as a massage with at least five (5) years experience. The experience must be from working as a licensed/registered massage therapist in this state or another state.
 - (b) Instructors – Instructors must be currently Tennessee licensed professionals in their appropriate profession if such profession requires licensure. If the instructor is required to be licensed in order to practice his/her profession, the instructor may teach only principles and concepts from that profession. They must have a minimum of practical experience within three (3) of the past seven (7) years within the subject area to be taught.
 - (c) Instructors must disclose any prior disciplinary action to the program and the program shall so notify the Board. The Board may deny approval of a program based upon an instructor's past disciplinary history.
 - (d) The program director shall establish an evaluation system to evaluate the performance of each instructor.
 - (e) The program director shall ensure that staff meetings are held to discuss progress of students, policies and procedures for the school, and changes to the statutes and rules of the Tennessee Massage Licensure Board which will affect its students.

- (f) The program director is responsible for the conduct of the instructors and students and any violation of the rules or statutes may result in the discipline of the program director's license, the withdrawal of program approval and/or the assessment of civil penalties.
- (2) Classrooms
 - (a) The classroom size must accommodate the number of students enrolled in the program, and;
 - (b) The classroom must be appropriately equipped to promote effective instruction.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.06 PROGRAM POLICIES AND PROCEDURES.

- (1) Infectious Disease Management
 - (a) The program must have a written policy on infectious disease management and infection control;
 - (b) The policy must be in compliance with all applicable state and federal regulations and guidelines, and;
- (2) Emergency Management
 - (a) Protocols are to be established to ensure the safety of instructors, students, clients, and the public in the event of an emergency;
 - (b) First aid/emergency kits are available at all times, and
 - (c) All instructors must be continuously certified in basic life support.
- (3) Fire and Safety
 - (a) All programs must comply with local and state fire codes.
 - (b) Written fire and safety procedures shall be made available to each student. Pertinent fire safety procedures shall be displayed in conspicuous places.
- (4) Sexual Harassment
 - (a) All programs must have a written policy on sexual harassment to address situations between instructors, clients, and students.
 - (b) The policy must be in compliance with all applicable state and federal regulations and guidelines, and;
 - (c) The policy must be reviewed with and distributed to all instructors, staff, and students.
- (5) Equal Employment Opportunity Commission (EEOC) - All programs must abide by the requirements imposed by the EEOC.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

0870-2-.07 ANNUAL REPORT. The program shall file an annual report with the Board.

- (1) The report shall contain:
 - (a) the number of students enrolled;
 - (b) the number of students graduated;
 - (c) the number of students dismissed or withdrawn;
 - (d) the number of students sitting for the licensure test; and
 - (e) the percentage of students taking the test for the first (1st) time and passing the licensure test.
- (2) A copy of the report filed with THEC is deemed to meet the requirements of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-111, and 63-18-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of February, 2005.
(02-20)

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

There will be a hearing before the Tennessee Board of Examiners' Committee of Physical Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, 63-13-108, and 63-13-304. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, §4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 18th day of April, 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, 1st Flr., Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 1150-1-.05, Procedures for Licensure, is amended by adding the following language as new subparagraph (1) (i) and renumbering the remaining subparagraphs accordingly:

- (1) (i) An applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-108, 63-13-304, and 63-13-312.

Rule 1150-1-.12, Continuing Competence, is amended by deleting part (3) (b) 2. and is further amended by adding the following language as subparagraph (7) (a) and renumbering the present subparagraphs (7) (a) through (7) (d) as (7) (b) through (7) (e), so that as amended, the new part (3) (b) 2. and the new subparagraph (7) (a) shall read:

- (3) (b) 2. Up to ten (10) hours of the twenty (20) hour requirement may be from Class II activities as provided in paragraph (6).
- (7) (a) Attending courses regarding:
 1. Regulations of the United States Department of Labor's Occupational Safety and Health Administration (OSHA);
 2. Regulations of the Tennessee Department of Labor and Workforce Development's Division of Occupational Safety and Health (TOSHA);
 3. Cardiopulmonary resuscitation (CPR); and
 4. Safety;

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 14th day of February, 2005.
(02-11)

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

There will be a hearing before the Tennessee Board of Examiners' Committee of Occupational Therapy to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 18th day of April, 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 1150-2-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (k) and (2) (k) and renumbering the remaining subparagraphs accordingly:

- (1) (k) The applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's licensure application materials, the result of a criminal background check.
- (2) (k) The applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's licensure application materials, the result of a criminal background check.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 14th day of February, 2005.
(02-12)

BOARD OF REGISTRATION IN PODIATRY - 1155

There will be a hearing before the Tennessee Board of Registration in Podiatry to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-3-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 7th day of July, 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 1155-2-.04, Qualification for Licensure, is amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (1) (e) and (1) (f) in their entirety and renumbering subparagraph (1) (g) as subparagraph (1) (e), and is further amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (d) and the new paragraph (2) shall read:

- (1) (d) Examination. Successfully complete all examinations required by rule 1155-2-.08.
- (2) Licensure by Reciprocity. All reciprocity applicants must complete the requirements for licensure in paragraph (1) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-111, and 63-3-114.

Rule 1155-2-.05, Procedures for Licensure, is amended by deleting subparagraphs (1) (i) and (1) (j) in their entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (l) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (i), (1) (j) and (1) (l), and the new paragraph (2) shall read:

- (1) (i) An applicant shall request that his/her scores from Parts I and II of the National Board of Podiatric Medical Examiners (NBPME) examinations be sent directly to the Board's administrative office from the testing agency.
- (1) (j) An applicant shall request that his/her scores, if taken in another state, from Part III of the NBPME examinations (formerly known as the Podiatric Medical Licensing Examination for States [PMLexis]) be sent directly to the Board's administrative office from the Federation of Podiatric Medical Boards.

- (1) (l) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) Licensure by Reciprocity. All reciprocity applicants must complete the procedures for licensure in paragraph (1) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-111, 63-3-114, and 63-3-119.

Rule 1155-2-.08, Examinations, is amended by adding the following introductory language and is further amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (3) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (a) in its entirety and substituting instead the following language, so that as amended, the new introductory language, the new paragraphs (1) and (2), the new paragraph (3) but not its subparagraphs, and the new subparagraph (5) (a) shall read:

1155-2-.08 EXAMINATIONS. All applicants for licensure by examination and reciprocity must successfully complete the examinations described in paragraphs (1), (2) and (3) of this rule.

- (1) Parts I and II of the National Board of Podiatric Medical Examiners (NBPME) examinations.
 - (a) The Board adopts as its passing scores for Parts I and II the NBPME's recommended passing score as determined by the criterion-referenced method approved by the NBPME.
 - (b) The passing scores for Parts I and II are to be achieved independently of each other and shall not be combined together for an average passing score.
 - (c) The examinations shall be administered by the NBPME's authorized testing agency.
- (2) Part III of the NBPME examinations (formerly known as the Podiatric Medical Licensing Examination for States [PMLexis]).
 - (a) The Board adopts as its passing score for Part III the NBPME's recommended passing score as determined by the criterion-referenced method approved by the NBPME.
 - (b) An applicant for licensure shall successfully complete Parts I and II before applying to the Board to take Part III.
 - (c) The examination shall be administered by the NBPME's authorized testing agency.
- (3) Jurisprudence examination.
- (5) (a) Applicants who fail Part III of the NBPME examinations shall be entitled to retake the next regularly scheduled examination upon sending a written request to the Board's administrative office at least sixty (60) days prior to the examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-109, 63-3-111, 63-3-112, and 63-3-114.

Rule 1155-2-.14, Academic License, is amended by deleting paragraph (1) and subparagraph (4) (j) in their entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (4) (l) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting paragraph (8) in its entirety and substituting instead the following language, and is further amended by deleting paragraph (9) in its entirety, so that as amended, the new paragraph (1), the new subparagraphs (4) (j) and (4) (l), and the new paragraph (8) shall read:

- (1) An application for an academic license will be considered only after an individual has completed all the requirements for full and unrestricted licensure except postgraduate education and the examination requirements of paragraphs (2) and (3) of rule 1155-2-.08.
- (4) (j) An applicant shall request that his/her scores from Parts I and II of the National Board of Podiatric Medical Examiners (NBPME) examinations be sent directly to the Board's administrative office from the testing agency.
- (4) (l) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (8) An academic license holder may be approved for a permanent license when he/she successfully completes the post-graduate educational program and the examination requirements of paragraphs (2) and (3) of rule 1155-2-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, 63-3-109, 63-3-113, and 63-3-119.

Rule 1155-3-.01, Scope of Practice and Certification, is amended by adding the following language as new subparagraph (2) (d):

- (2) (d) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-3-106, and 63-3-119, and 63-3-125.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of February, 2005.
(02-19)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 4th day of May, 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 1330-1-.05, Qualifications and Procedures for Licensure, is amended by adding the following language as new subparagraph (1) (h) and renumbering the remaining subparagraphs accordingly:

- (1) (h) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of February, 2005.
(02-13)

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365
DIVISION OF HEALTH RELATED BOARDS

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-23-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee 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 April, 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, 1st Floor, Cordell Hull Building, 425 5th Ave. N., Nashville, TN 37247-1010, (615) 532-4397.

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1365-1-.05, Procedures for Certification and Licensure, is amended by adding the following language as new subparagraphs (1) (g), (2) (m) and (3) (g), and renumbering the remaining subparagraphs accordingly:

- (1) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.
- (2) (m) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification or licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-23-106, and 63-23-108.

Rule 1365-1-.10, Supervision, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) Both the supervisor and supervisee must maintain records of the experience and the supervision process. Except as provided in rule 1365-1-.05 (3) (k), verification of supervision will be submitted by both the supervisor and supervisee at the time the application for licensure is filed in the Board's administrative office.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-23-103, 63-23-106, and 63-23-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 10th day of February, 2005.
(02-06)



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 February 1, 2005 and ending February 28, 2005.

Riley C. Darnell
RILEY C. DARNELL
Secretary of State