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## TENNESSEE ADMINISTRATIVE REGISTER



**April 15, 2005**  
**Volume 31, Number 4**

**RILEY C. DARNELL**  
Secretary of State

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

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## 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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**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400**

**PETITION FOR DECLARATORY ORDER  
NOTICE OF HEARING**

(As required Under T.C.A. §4-5-224)

1. Petitioner's Name: Duratek Services, Inc.
2. Petitioner's Attorneys: D. Andrew Amonette  
Andrew Pulliam  
William L. Penny  
  
Address: 2525 West End Avenue, Suite 1500  
Nashville, Tennessee 37203-1423  
Telephone Number: 615-244-0020
3. Docket Number: 04.27-068790A
4. Summary of the relief requested:

Duratek Services, Inc. seeks to void a voluntary brownfield agreement between the Department of Environment and Conservation/ Division of Radiological Health and Guardian Realty Company. "Brownfield agreements are authorized by the provisions of Tennessee Code Annotated § 68-212-224. Duratek asserts that the agreement does not comply with the requirements of the statute.

A contested case hearing has been scheduled for August 2-3, 2005.

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

Your petition must be filed with:

Copies must also go to: D. Andrew Amonette  
Andrew Pulliam  
William L. Penny  
Wyatt, Tarrant & Combs  
Nashville, Tennessee 37203-1423

**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 9.57%.

This announcement is placed in the Tennessee Administrative Register for the purpose of information only and does not constitute a rule within the meaning of the Uniform Administrative Procedures Act.

Kevin P. Lavender

**THE DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180**

**ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST**

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of May 2005 is 8.81 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 | DATE FILED    | CONTROL NUMBER, DEPARTMENT AND DIVISION                                 | TYPE OF FILING          | DESCRIPTION | RULE NUMBER AND TITLE  | LEGAL CONTACT  | EFFECTIVE DATE                        |
|--------|---------------|---|-------------------------|-------------|--|--|---------------------------------------|
| 03-01  | March 4, 2005 | <b>1360</b><br><b>Department of State</b><br>Charitable Solicitation    | Emergency Rules         | New Rules   | <i>Chapter 1360-3-2</i><br><i>Procedures for Operating Charitable Gaming Events</i><br>1360-3-2-.01 Definitions<br>1360-3-2-.02 Applications for Authorization to hold an Annual Gaming Event- Time to submit applications<br>1360-3-2-.03 Application Sliding Fee Scale<br>1360-3-2-.04 Proof of Active and Continuous Existence<br>1360-3-2-.05 Proof of §501(c)(3) Tax Exempt Status and Purpose(s)<br>1360-3-2-.06 Description of the Game<br>1360-3-2-.07 Prohibited/ Allowed Types of Games<br>1360-3-2-.08 Action by Board of Directors<br>1360-3-2-.09 Amendment Process- Conflicting Locations, Other Amendments<br>1360-3-2-.10 Conduct of the Games | Barbara Toms<br>Charitable Solicitation<br>312 8th Ave N<br>8th Fl TN Twr<br>Nashville, TN 37243<br>615-741-2555 | March 4, 2005 through August 16, 2005 |
| 03-03  | March 3, 2005 | <b>1240</b><br><b>Human Services</b><br>Child Support Services Division | Emergency Rules         | Amendments  | <i>Chapter 1240-2-4</i><br><i>Child Support Guidelines</i><br>1240-2-4-.03 The Income Shares Model<br>1240-2-4-.04 Determination of Child Support<br>1240-2-4-.08 Worksheets and Instructions<br>1240-2-4-.05 Modification of Child Support Orders   | Kim Beals<br>Human Services<br>400 Deaderick St<br>Nashville TN 37248-0006<br>615-313-3754                       | March 3, 2005 through August 15, 2005 |
| 03-04  | March 2, 2005 | <b>1680</b><br><b>Transportation</b><br>Construction Division           | Rulemaking Hearing Rule | New Rules   | <i>Chapter 1680-5-2</i><br><i>Contractor Qualifications for Construction in High Quality or Impaired Waters</i><br>1680-5-2-.01 Purpose<br>1680-5-2-.02 Application<br>1680-5-2-.03 Definitions<br>1680-5-2-.04 Staffing, Training and Certification Requirements  | John Reinbold<br>Transportation<br>Suite 300 Polk Bldg<br>505 Deaderick St<br>Nashville TN 37243<br>615-741-2941 | July 29, 2005                         |

## Announcements

| SEQ NO | DATE FILED    | CONTROL NUMBER, DEPARTMENT AND DIVISION                        | TYPE OF FILING         | DESCRIPTION | RULE NUMBER AND TITLE   | LEGAL CONTACT   | EFFECTIVE DATE                        |
|--------|---------------|--|------------------------|-------------|---|---|---------------------------------------|
| 03-05  | March 1, 2005 | <b>0520<br/>Education</b>                                      | Proposed Rule          | Amendment   | <i>Chapter 0520-1-2<br/>Administrative Rules and Regulations</i><br>0520-1-2-.03 Teaching Personnel in Gifted Education   | Debra Owens<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN 37243-1050<br>615-741-2966 | July 29, 2005                         |
| 03-06  | March 1, 2005 | <b>0520<br/>Education</b>                                      | Proposed Rule          | Amendment   | <i>Chapter 0520-1-3<br/>Minimum Requirements for the Approval of Public Schools</i><br>0520-1-3-.03 Administration of Schools, Requirement B  | Debra Owens<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN 37243-1050<br>615-741-2966 | July 29, 2005                         |
| 03-07  | March 1, 2005 | <b>0520<br/>Education</b>                                      | Proposed Rule          | Amendment   | <i>Chapter 0520-1-9<br/>Special Education Programs and Services</i><br>0520-1-9-.05 Referral, Initial Evaluation, and Reevaluation  | Debra Owens<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN 37243-1050<br>615-741-2966 | July 29, 2005                         |
| 03-08  | March 1, 2005 | <b>0520<br/>Education</b>                                      | Proposed Rule          | Amendment   | <i>Chapter 0520-1-9<br/>Special Education Programs and Services</i><br>0520-1-9-.14 Procedural Safeguards<br>0520-1-9-.15 Discipline Procedures<br>0520-1-9-.16 Children in Private Schools | Debra Owens<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN 37243-1050<br>615-741-2966 | July 29, 2005                         |
| 03-09  | March 8, 2005 | <b>0180<br/>Financial Institutions<br/>Compliance Division</b> | Public Necessity Rules | Amendments  | <i>Chapter 0180-17<br/>Rules Pertaining to Mortgage Lending, Loan Servicing and Loan Brokering</i><br>0180-17-.10 Fees  | Tracey E. Boyers, Attorney<br>Financial Institutions<br>4th Fl Nashville City Ctr<br>511 Union St<br>(615) 741-0346 | March 8, 2005 through August 20, 2005 |



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|--------|---------------|---|--------------------------|-------------|--|--|----------------|
| 03-10  | March 1, 2005 | <b>0520 Education</b>                                     | Proposed Rule            | Amendment   | <i>Chapter 0520-2-3 Teacher Education and Licensure</i><br>0520-2-3-.21 Effective Dates  | Mary Jo Howland<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN, 37243-1050<br>(615) 741-2966             | July 29, 2005  |
| 03-11  | March 1, 2005 | <b>0520 Education</b>                                     | Proposed Rule            | Amendment   | <i>Chapter 0520-2-4 Licensure</i><br>0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers             | Mary Jo Howland<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN, 37243-1050<br>(615) 741-2966             | July 29, 2005  |
| 03-12  | March 1, 2005 | <b>0520 Education</b>                                     | Proposed Rule            | New Rule    | <i>Chapter 0520-12-1 Standards for Child Care Centers and School-Age Child Care Programs</i><br>0520-12-1-.14 Civil Penalties    | Mary Jo Howland<br>Education<br>9th Fl A Johnson Twr<br>710 J Robertson Pkwy<br>Nashville TN, 37243-1050<br>(615) 741-2966             | July 29, 2005  |
| 03-13  | March 7, 2005 | <b>0780 Commerce and Insurance</b><br>Fire Prevention     | Rulemaking Hearing Rules | New Rule    | <i>Chapter 0780-2-1 Electrical Installations</i><br>0780-2-1-.20 Local Government Authorization to Perform Electrical Inspection | Christy Allen<br>Commerce and Insurance<br>500 J Robertson Pkwy<br>Davy Crockett Twr 5th Fl<br>Nashville TN 37243-0569<br>615-741-3072 | May 21, 2005   |
| 03-16  | March 8, 2005 | <b>0180 Financial Institutions</b><br>Compliance Division | Rulemaking hearing Rules | Amendment   | <i>Chapter 0180-17 Rules Pertaining to Mortgage Lending, Loan Servicing and Loan Brokering</i><br>0180-17-.10 Fees               | Tracey Boyers<br>Financial Institutions<br>4th Fl Nashville City Center<br>511 Union St<br>Nashville TN 37219<br>615-741-0346          | May 22, 2005   |

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| 03-17  | March 10, 2005 | <b>1150 Occupational and Physical Therapy Examiners</b><br>Committee of Occupational Therapy | Rulemaking Hearing Rules | Amendments  | <i>Chapter 1150-2<br/>General Rules Governing the Practice of Occupational Therapy</i><br>1150-2-.01 Definitions<br>1150-2-.02 Scope of Practice<br>1150-2-.04 Qualifications for Certification<br>1150-2-.05 Procedures for Certification<br>1150-2-.08 Examinations | Nicole Armstrong<br>Health OGC<br>26th Fl TN Twr<br>312 8th Ave N<br>Nashville, TN 37247-0120<br>(615) 741-1611                                     | May 24, 2005   |
| 03-18  | March 10, 2005 | <b>0880 Medical Examiners</b><br>Committee for Clinical Perfusionists                        | Rulemaking Hearing Rules | Amendment   | <i>Chapter 0880-11<br/>General Rules and Regulations Governing the Practice of Clinical Perfusionists</i><br>0880-11-.06 Fees   |   | May 24, 2005   |
| 03-19  | March 10, 2005 | <b>0250 Children's Services</b><br>Social Services Division                                  | Proposed Rules           | Amendments  | <i>Chapter 0250-7-13<br/>Adoption Process Forms</i><br>0250-7-13-.15 Adoption Consent Form for Minor Who is Fourteen (14) Years of Age<br><br>0250-7-13-.16 Adoption Consent Form for Use by Guardian Ad Item for Minor Who is Fourteen (14) Years of Age             | Stacy Miller, Deputy<br>General Counsel<br>DCS Office of General Counsel<br>7th Fl., Cordell Hull Building<br>436 6th Ave. N.<br>Nashville TN 37243 | July 29, 2005  |

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| 03-21  | March 11, 2005 | <b>1680 Transportation</b><br>Maintenance Division | Proposed Rules | Amendments  | <p><i>Chapter 1680-3-2</i><br/> <i>Manual on Uniform Traffic Control Devices –</i><br/> <i>Supplemental Rules for Guide Signs on Freeways,</i><br/> <i>Expressways and Conventional Highways</i></p> <p>1680-3-2-.01 Purpose</p> <p>1680-3-2-.04 Supplemental Guide Signs on Freeways and Expressways</p> <p>1680-3-2-.06 Named Bridge and Highway Signs on Freeways and Expressways</p> <p>1680-3-2-.08 Table A-1. Criteria for Signing Traffic Generators on Freeways and Expressways</p> <p>1680-3-2-.09 Table A-2. Traffic Generators That Do Not Warrant Signing on Freeways and Expressways</p> <p>1680-3-2-.12 Supplemental Guide Signs on Conventional Highways</p> <p>1680-3-2-.14 Named Bridge and Highway Signs on Conventional Highways</p> <p>1680-3-2-.15 Table B-1. Criteria for Signing Traffic Generators on Conventional Highways</p> <p>1680-3-2-.16 Supplemental Guide Signs on Conventional Highways</p> <p>1680-3-2-.20 Policy for Trail Signs on Conventional Highways</p> | John H. Reinbold<br>Transportation<br>Ste 300 Polk Bldg<br>505 Deaderick St<br>Nashville TN 37243<br>(615) 741-2941 | July 29, 2005  |

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|--------|----------------|--|--------------------------------|--|---|---|----------------|
| 03-22  | March 14, 2005 | <b>0120<br/>Architectural<br/>and Engineering<br/>Examiners</b>                | Rulemaking<br>Hearing<br>Rules | Amendments   | <p><i>Chapter 0120-1<br/>Registration Requirements and Procedures</i></p> <p>0120-1-.08 Applications – Landscape Architects</p> <p>0120-1-.10 Education and Experience Requirements – Engineer</p> <p>0120-1-.11 Education and Experience Requirements – Architect</p> <p>0120-1-.23 Reexamination – Landscape Architect</p> <p><i>Chapter 0120-5<br/>Continuing Education</i></p> <p>0120-5-.04 Basic Requirements</p> | Christy A. Allen<br>Commerce and Insurance<br>Office of Legal Counsel<br>500 J Robertson Pkwy<br>Davy Crockett Twr 5th Fl<br>Nashville TN 37243<br>(615) 741-3072 | May 28, 2005   |
| 03-23  | March 14, 2005 | <b>0780<br/>Commerce and<br/>Insurance</b><br>Division of Regulatory<br>Boards | Rulemaking<br>Hearing<br>Rules | Amendments<br><br><br><br><br><br><br><br><br><br>Repeal | <p><i>Chapter 0780-5-1<br/>Professional Boxing</i></p> <p>0780-5-1-.06 Ring</p> <p>0780-5-1-.13 Weigh-in</p> <p>0780-5-1-.16 Timekeeper</p> <p>0780-5-1-.21 No Contest</p> <p>0780-5-1-.25 Time Limitations</p> <p>0780-5-1-.26 Responsibilities of Promoter</p> <p>0780-5-1-.28 Contracts</p> <p>0780-5-1-.32 Foul Related Injuries</p> <p><i>Chapter 0780-5-3<br/>Toughman Contests</i></p>                           | Christy A. Allen<br>Commerce and Insurance<br>Office of Legal Counsel<br>500 J Robertson Pkwy<br>Davy Crockett Twr 5th Fl<br>Nashville TN 37243<br>(615) 741-3072 | May 28, 2005   |
| 03-24  | March 21, 2005 | <b>1180<br/>Psychology</b>   | Rulemaking<br>Hearing<br>Rules | Amendment<br><br><br><br><br><br><br>New Rule            | <p><i>Chapter 1180-1<br/>General Rules Governing the Practice of<br/>Psychologists, Senior Psychological Examiners,<br/>Psychological Examiners, and Certified<br/>Psychological Assistants</i></p> <p>1180-1-.08 Continuing Education</p> <p>1180-1-.06 Patient Records</p>  | Nicole Armstrong<br>Health OGC<br>26th Fl TN Twr<br>312 8th Ave N<br>Nashville, TN 37247-0120<br>(615) 741-1611   | June 4, 2005   |

## Announcements

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|--------|----------------|--|--------------------------|-------------|--|--|----------------|
| 03-25  | March 21, 2005 | <b>1000 Nursing</b>                                      | Rulemaking Hearing Rules | Amendments  | <p><i>Chapter 1000-1</i><br/> <i>Rules and Regulations of Registered Nurses</i><br/>           1000-1-.07 Schools: Faculty<br/>           1000-1-.13 Unprofessional Conduct and Negligence, Habits or Other Cause</p> <p><i>Chapter 1000-2</i><br/> <i>Rules and Regulations of Licensed Practical Nurses</i><br/>           1000-2-.13 Unprofessional Conduct and Negligence, Habits or Other Cause</p> <p><i>Chapter 1000-4</i><br/> <i>Advanced Practice Nurses &amp; Certificates of Fitness to Prescribe</i><br/>           1000-4-.09 Prerequisites to Prescribing or Dispensing Medications</p> | Richard Russell<br>Health OGC<br>26th Fl TN Twr<br>312 8th Ave N<br>Nashville TN 37247-0120<br>615-741-1611                        | June 4, 2005   |
| 03-26  | March 16, 2005 | <b>0780 Commerce and Insurance</b><br>Insurance Division | Rulemaking Hearing Rules | Repeal      | <p><i>Chapter 0780-1-31</i><br/> <i>Articles of Association and Rules of Practice</i></p>  | John Morris<br>Commerce and Insurance<br>Davy Crockett Twr<br>5th Fl<br>500 J Robertson Pkwy<br>Nashville TN 37243<br>615-741-2199 | May 30, 2005   |

Announcements

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|--------|----------------|--|--------------------------|-------------|--|--|----------------|
| 03-27  | March 16, 2005 | <b>0780<br/>Commerce and Insurance</b><br>Insurance Division | Rulemaking Hearing Rules | Amendments  | <i>Chapter 0780-1-37<br/>Relating to the Filing of Annual Statements with the Department of Insurance</i><br>0780-1-37-.01 Definitions<br>0780-1-37-.02 Form of Annual Statements to be Filed with the Department of Commerce and Insurance<br>0780-1-37-.03 Instructions for Completion of Annual Statement Forms<br>0780-1-37-.04 Quarterly Financial Statements to be Filed with the Department of Commerce and Insurance<br>0780-1-37-.05 Violations and Penalties<br>0780-1-37-.06 Applicability of Financial Statements or Information Prepared on a Basis Other Than Statutory Accounting Practices | John Morris<br>Commerce and Insurance<br>Davy Crockett Twr<br>5th Fl<br>500 J Robertson Pkwy<br>Nashville TN 37243<br>615-741-2199 | May 30, 2005   |
| 03-28  | Mar 16, 2005   | <b>0780<br/>Commerce and Insurance</b><br>Insurance Division | Rulemaking Hearing Rules | Amendments  | <i>Chapter 0780-1-41<br/>Relating to Tennessee Captive Insurance Companies</i><br>0780-1-41-.01 Purpose<br>0780-1-41-.02 Required Form Letter of Credit<br>Appendix A Captive Insurance Company Irrevocable Letter of Credit   | John Morris<br>Commerce and Insurance<br>Davy Crockett Twr<br>5th Fl<br>500 J Robertson Pkwy<br>Nashville TN 37243<br>615-741-2199 | May 30, 2005   |
| 03-29  | Mar 17, 2005   | <b>1330<br/>Respiratory Care</b>                             | Rulemaking Hearing Rules | Amendment   | <i>Chapter 1330-1<br/>General Rules Governing Respiratory Care Practitioners</i><br>1330-1-.12 Continuing Education  | Nicole Armstrong<br>Health OGC<br>26th Fl TN Twr<br>312 8th Ave N<br>Nashville TN 37247-0120<br>615-741-1611                       | May 31, 2005   |

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|--------|----------------|--|--------------------------|----------------------------|--|--|----------------|
| 03-30  | Mar 17, 2005   | <b>1155 Podiatry</b>   | Rulemaking Hearing Rules | Amendment                  | <i>Chapter 1155-2<br/>General Rules and Regulations Governing the Practice of Podiatry</i><br>1155-2-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas   | Nicole Armstrong<br>Health OGC<br>26th FI TN Twr<br>312 8th Ave N<br>Nashville TN 37247-0120<br>615-741-1611   | May 31, 2005   |
| 03-34  | March 24, 2005 | <b>1150 Occupational and Physical Therapy Examiners</b><br>Committee of Occupational Therapy | Rulemaking Hearing Rules | Amendments<br><br>New Rule | 1150-2-.01 Definitions<br>1150-2-.09 Renewal of Certificate<br>1150-2-.11 Retirement and Reactivation of Certificate<br>1150-2-.12 Continued Competence  | Nicole Armstrong<br>Health OGC<br>26th FI TN Twr<br>312 8th Ave N<br>Nashville TN 37247-0120<br>615-741-1611   | June 7, 2005   |
| 03-35  | March 29, 2005 | <b>0940 Mental Health and Developmental Disabilities</b><br>Mental Retardation Services      | Rulemaking Hearing Rules | Amendments                 | <i>New Chapter 0940-4-03<br/>(Surrogate Decision Making for Individuals with Mental Retardation or Mental Impairment Related to Developmental Disabilities)</i><br>0940-4-3-.01 Purpose<br>0940-4-3-.02 Scope<br>0940-4-3-.03 Definitions<br>0940-4-3-.04 Assessment of Capacity to Make Informed Decisions<br>0940-4-3-.05 Qualifications of a Surrogate Decision-Maker<br>0940-4-3-.06 Duties of a Surrogate Decision-Maker<br>0940-4-3-.07 Rights of a Surrogate Decision-Maker<br>0940-4-3-.08 Duties of a Service Provide | Janice L. Spillman<br>Mental Health and Developmental Disabilities<br>5th FI Cordell Hull Bldg<br>425 5th Ave N<br>Nashville TN 37243<br>(615) 532-6509<br><br>Cynthia Clark Tyler<br>Office of Legal Counsel<br>Mental Health and Developmental Disabilities<br>3rd FI Cordell Hull Bldg<br>425 5th Ave N<br>Nashville TN 37243<br>(615) 532-6520 | June 12, 2005  |
| 03-36  | March 29, 2005 | <b>0400 Environment and Conservation</b><br>Bureau of Environment Air Pollution Control      | Rulemaking Hearing Rules | Amendment                  | <i>Chapter 1200-3-26<br/>Administrative Fees Schedule</i><br>1200-3-26-.02 Construction And Annual Emission Fees   | Mr. Ron Culberson<br>Air Pollution Control<br>9th FI L & C Annex<br>401 Church Street<br>Nashville, TN 37243-1531<br>(615) 532-0554  | June 12, 2005  |

## Announcements

| SEQ NO | DATE FILED   | CONTROL NUMBER, DEPARTMENT AND DIVISION                      | TYPE OF FILING           | DESCRIPTION | RULE NUMBER AND TITLE   | LEGAL CONTACT  | EFFECTIVE DATE |
|--------|--------------|--|--------------------------|-------------|---|--|----------------|
| 03-45  | Mar 16, 2005 | <b>0780<br/>Commerce and Insurance</b><br>Insurance Division | Rulemaking Hearing Rules | Amendments  | <i>Chapter 0780-1-65<br/>Annual Audited Financial Reports</i><br>0780-1-65-.08 Consolidated Financial Reports | John Morris<br>Commerce and Insurance<br>Davy Crockett Twr<br>5th Fl<br>500 J Roberson Pkwy<br>Nashville TN 37243<br>615-741-2199  | May 30, 2005   |
| 03-46  | Mar 16, 2005 | <b>0780<br/>Commerce and Insurance</b><br>Insurance Division | Rulemaking Hearing Rules | New Rules   | <i>Chapter 0780-2-19<br/>Audits of Local Codes Enforcements Agencies</i><br>0780-2-19-.01 through .13         | John Morris<br>Commerce and Insurance<br>Davy Crockett Twr<br>5th Fl<br>500 J Robertson Pkwy<br>Nashville TN 37243<br>615-741-2199 | May 30, 2005   |



**HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720**

*NOTICE OF BEGINNING OF REVIEW CYCLE*

Applications will be heard at the May 25, 2005 Health Services and Development Agency Meeting  
(except as otherwise noted)

*\*Denotes applications being placed on the Consent Calendar.*

*+Denotes applications under simultaneous review.*

This is to provide official notification that the Certificate of Need applications listed below have begun the review cycle effective March 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, ADDRESS, AND DESCRIPTION

Gibson General Hospital  
200 Hospital Drive  
Trenton (Gibson County), TN 38382  
CN0502-006  
Contact Person: Victoria S Lake, Director, Market Research  
Phone No. 731-660-8735

The initiation of swing beds services and conversion of ten (10) existing acute care beds to swing beds. The one hundred (100) licensed bed total will remain unchanged.

\* These beds are subject to the 125-bed nursing home pool.

\$ 9,541.00

Camden General Hospital, Inc.  
175 Hospital Street  
Camden (Benton County), TN 38320  
CN0502-007  
Contact Person: Victoria S Lake, Director Market Research  
Phone No. 731-660-8735

The initiation of swing bed services and conversion of ten (10) existing skilled nursing beds to ten (10) swing beds. The skilled nursing beds will be delicensed and the unit will be closed. The hospital's licensed bed capacity will increase from eighty-three (83) to ninety-three (93) beds.

\* These beds are not subject to the 125-bed nursing home pool.

\$ 9,541.00

## Announcements

Life Care at Home of Tennessee d/b/a  
Affinity-Hospice of Life  
7625 Hamilton Park Drive, Suite 16  
Chattanooga (Hamilton County), TN 37416  
CN0502-008  
Contact Person: William H. West, Attorney  
Phone No. 615-726-5561

The establishment of a home care organization providing hospice services. The service area will include Hamilton, Polk, Bradley, Marion, Bledsoe, McMinn, Meigs, Rhea, Grundy and Sequatchie counties. Life Care at Home of Tennessee also operates an existing home health organization providing home health services in these same counties.

\$ 50,000.00

Horizon Medical Center  
Hwy. 46 between Nails Creek Rd. and Ravenwood Cr.  
Dickson (Dickson County), TN 37055  
CN0502-009  
Contact Person: John Wellborn, Consultant  
Phone No. 615-665-2022

A change of site for the previously approved CN0301-004A, but unimplemented, for the acquisition of a linear accelerator and the initiation of outpatient radiation therapy services. This project will be relocated from the campus of Horizon Medical Center to the east side of Hwy. 46 by Interstate 40, Exit 172.

\$ 7,166,871.00

Tennessee Valley Diagnostic Center  
2205 McCallie Avenue  
Chattanooga (Hamilton County), TN 37404  
CN0502-010  
Contact Person: John Wellborn, Consultant  
Phone No. 615-665-2022

The establishment of an outpatient diagnostic center (ODC) with magnetic resonance imaging (MRI), and the initiation of outpatient MRI services. The facility will be licensed as a freestanding ODC managed by Parkridge Medical Center, Inc.

\$ 3,465,757.00

## Announcements

Horizon Outpatient Imaging Center  
Hwy. 46 between Nails Creek Road and  
Ravenwood Circle  
Dickson (Dickson County), TN 37055  
CN0502-011  
Contact Person: John Wellborn, Consultant  
Phone No. 615-665-2022

The establishment of an outpatient diagnostic center (ODC), the acquisition of magnetic resonance imaging (MRI) and computerized tomography (CT) scanners and the initiation of MRI services. This is a change of site and ownership for previously approved Certificate of Need CN0205-037A.

\$ 7,277,147.00

Stonecrest Medical Center  
3000 Stonecrest Boulevard  
Smyrna (Rutherford County), TN 37167  
CN0502-012  
Contact Person: John Wellborn, Consultant  
Phone No. 615-665-2022

The addition of twenty-six (26) general acute care hospital beds on the fourth floor, and remodeling on the second floor. This project will increase the licensed bed complement from seventy-five (75) beds to one hundred and one (101) beds.

\$ 4,452,997.00

Millennium MRI, LLC  
1718 Charlotte Avenue  
Nashville (Davidson County), TN 37203  
CN0502-013  
Contact Person: Kim Harvey Looney, Attorney  
Phone No. 615-850-8722

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services limited to the practice of David McCord, M.D. The project includes the acquisition of a stand up MRI to be shared with Premier Stand Up MRI, LLC (CN0502-014).

\$ 592,025.00

Premier Open Stand Up MRI, LLC  
1718 Charlotte Avenue  
Nashville (Davidson County), TN 37203  
CN0502-014  
Contact Person: Kim Harvey Looney  
Phone No. 615-850-8722

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services. The project includes the acquisition of a stand up MRI to be shared with Millennium MRI, LLC (CN0502-013).

\$ 1,771,050.92

**DEPARTMENT OF HEALTH - 1200  
BEFORE THE BOARD OF VETERINARY MEDICAL EXAMINERS - 1730**

**PETITION FOR DECLARATORY ORDER  
NOTICE OF HEARING  
AND  
NOTICE TO POTENTIALLY INTERESTED PERSONS**

Ms. Bonnie Cady has filed a Petition for a Declaratory Order pursuant to Tenn. Code Ann. § 4-5-224 and the Uniform Rules for Hearing Contested Cases Before State Administrative Agencies, Tenn. Comp. R. & Regs. 1360-4-1-.07.

1.     Petitioner's Name:                     Bonnie Cady  
   280 Montgomery Road  
   Shelbyville, Tennessee 37160  
  
           Telephone Number:                 (931) 684-0704  
  
           Docket Number:                     17.25-068969A
2.     Petitioner's Attorney:                Frank J. Scanlon  
  
           Address:                             Watkins, McGugin, McNeily & Rowan, PLLC  
   214 Second Avenue North, Suite 300  
   Nashville, Tennessee 37201  
  
           Telephone Number:                 (615) 255-2191
3.     Organization, if any, that the Petitioner represents:  
  
           None.
4.     Provide a statement of the facts that led to the filing of this petition.

Since 1986 Ms. Cady has owned and operated a horse training and breeding business located at 280 Montgomery Road in Shelbyville, TN, under the name "The Horse Hub." Ms. Cady is not now, nor has she ever been, licensed to practice veterinary medicine in the State of Tennessee. She has never held herself out to be a veterinarian.

On or about July 15, 2004, Ms. Cady was served by the Office of General Counsel of the Tennessee Department of Health with a "Notice of Charges and Memorandum of Assessment of Civil Penalties and Costs" (Notice of Charges) before the Tennessee Board of Veterinary Medical Examiners (Board) naming her as an "Unlicensed Respondent."

The Notice of Charges alleged that since 1986, Ms. Cady has rendered certain specified services for customers of The Horse Hub that constitute the unlicensed practice of veterinary medicine as defined by Tenn. Comp. R. & Regs. 1730-1-.02. The Notice of Charges requested that a civil penalty and costs be assessed against Ms. Cady based upon her alleged unlawful practice of veterinary medicine.

The matter was set for hearing at the Board's December 9, 2004, meeting. At the conclusion of the contested case, the Board found that Ms. Cady had engaged in the practice of veterinary medicine without a license and assessed civil penalties in the amount of \$17,000.00 plus costs. Ms. Cady has filed a motion to stay the Board's Order pending an appeal to the Davidson County Chancery Court that will be heard at the Board's April 20-21, 2005, meeting.

## Announcements

The regulation allegedly violated by Ms. Cady was Tenn. Comp. R. & Regs. 1730-1-.02. The Notice of Charges did not cite to, or specifically allege that Ms. Cady's conduct fell within the statutory definition of the "practice of veterinary medicine" set forth at Tenn. Code Ann. § 63-12-103(10).

5. Provide a summary of the relief the Petitioner is requesting, including the specific nature of the requested order and the conclusions the Petitioner would like the agency to reach at the conclusion of the declaratory process.

Ms. Cady respectfully requests that the Board convene a contested case proceeding to determine the validity of Tenn. Comp. R. & Regs. 1730-1-.02, which defines the "scope of practice of veterinary medicine." Specifically, Ms. Cady requests that the Board enter an order declaring that the definition in the rule is inconsistent with, and broader than, the statutory definition of the "practice of veterinary medicine" set forth at Tenn. Code Ann. § 63-12-103(10) and, therefore, invalid as being promulgated in excess of the Board's statutory authority.

Tennessee Code Annotated, Section 63-12-106(1) authorizes the Board to adopt "...reasonable rules governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purposes and intent of this chapter." However, when the General Assembly has clearly and specifically defined a term by statute, an agency is not free to change or expand that definition by regulation. See, OAG 02-007 (1/4/02). In promulgating Tenn. Comp. R. & Regs. 1730-1-.02, the Board has attempted to substitute its definition of the practice of veterinary medicine for that of the General Assembly for that which it has no authority.

6. Citation to the statute, rule or order which is the subject of the petition.

Tenn. Code Ann. § 63-12-103(10)  
Tenn. Comp. R. & Regs. 1730-1-.02

7. State how the statute, rule and/or order cited above specifically and directly produces and effect or result upon the Petitioner:

This petition requests that Tenn. Comp. R. & Regs. 1730-1-.02 be declared invalid. The Notice of Charges issued against Ms. Cady requested the assessment of civil penalties against Ms. Cady for violation of Tenn. Comp. R. & Regs. 1730-1-.02.

A hearing has been scheduled for Wednesday, August 24, 2005, at 9 a.m. before the Tennessee Board of Veterinary Medical Examiners in the Cumberland Room of the Cordell Hull Building, Ground Floor, 425 5<sup>th</sup> Avenue North, Nashville, Tennessee 37247.

If you have questions, you may contact the Petitioner's attorney, Frank J. Scanlon, at the address and phone number listed at the beginning of this notice.

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 22<sup>nd</sup> day of March, 2005.

Submitted for publication by:

Nicole L. Armstrong (BPR #020615)  
Assistant General Counsel  
Office of General Counsel  
Tennessee Department of Health  
312 8<sup>th</sup> Ave. N., 26<sup>th</sup> Fl. Wm. Snodgrass Tower  
Nashville, Tennessee 37243  
(615) 741-1611

**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)

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

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

The Tennessee Department of Human Services implemented new Income Shares Child Support Guidelines on January 18, 2005 in Chapter 1240-2-4 of the Department's rules.

The use of Guidelines for the calculation of new or modified orders for the support of children in divorce and paternity cases by all courts and administrative tribunals in Tennessee is mandatory pursuant to 42 U.S.C. § 667 and 45 C.F.R. § 302.56 as a condition for receipt of federal funding. The promulgation of Guidelines is authorized in Tennessee law pursuant to Tennessee Code Annotated § 36-5-101(e)(2) and §§ 71-1-105(12) and (15) and 71-1-132.

Shortly after implementation of the new rules containing the Guidelines on January 18, 2005, an error was discovered in the rules pertaining to the calculation of additional expenses in split parenting cases and cases where parenting time is divided on a 50/50 basis. In these two types of cases, this error will result in the establishment of inappropriate amounts of child support or can result in the failure to obtain necessary modification of child support orders.

The Department finds that an immediate danger to the public welfare exists. The promulgation of an emergency rule to immediately correct the method of calculation in those cases to which the rule will apply as stated above is the only method to immediately stop the increasing impact of the calculation error that will apply to all new cases to establish support and for determinations as to which orders in those cases can be modified. This situation presents an immediate danger to the public of determining cases with the incorrect amounts of child support for children, or failure to modify cases that should be modified for their benefit, but may not be, if the calculation is incorrect. It will also result in a situation where many cases will have to be re-evaluated after several months of using the incorrect calculation resulting in potential loss of support. Emergency rules are the only means available to immediately address this situation since new rules must be effective as quickly as possible to accomplish the corrective action. The emergent nature of the problem is such that the use of any other rulemaking procedures under the Administrative Procedures Act will be insufficient to protect the public from the danger presented.

For a copy of this emergency rule, contact: Darryl F. Wells, Legal Assistant, Citizens Plaza Building, 15th Floor, 400 Deaderick Street, Nashville, Tennessee 37248-0006 (615) 313-4731.

Virginia T. Lodge  
Commissioner  
Tennessee Department of Human Services

**EMERGENCY 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 childcare 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 childcare.
  - (iii) If the health insurance premium is being paid by a parent and/or the work-related childcare is being paid by a parent through payroll deduction, the payment shall be reflected in the



## Emergency Rules

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)]

## Emergency Rules

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.

Subtract Line 14 from Line 13 (the 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

## Emergency Rules

- III. The amounts calculated in subitems 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 subitem (I)I above is greater than the result from subitem (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.

## Emergency Rules

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 childcare.

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**

|   |                               | PRP           | ARP              | SPLIT            |                     |
|---|-------------------------------|---------------|------------------|------------------|---------------------|
| Indicate the status of each parent or caretaker by placing an "X" in the appropriate column | Name of Mother:               |               |                  |                  |                     |
|   | 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**

|    |  | Column A | Column B | Column C |
|----|--|----------|----------|----------|
| ✓  | 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 |          |          |          |
| 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)  |          |          | \$       |

**Part III. Parents' Share of Support Obligation**

|                    |   |                                 |    |    |  |
|--------------------|---|---------------------------------|----|----|--|
| Standard Parenting | 5 | Each parent's share of the BCSO | \$ | \$ |  |
|--------------------|---|---------------------------------|----|----|--|

## Emergency Rules

|                 |           |   |    |    |
|-----------------|-----------|---|----|----|
| Split Parenting | <b>6a</b> | Mother's obligation for children for whom father is the PRP | \$ |    |
|                 | <b>6b</b> | Father's obligation for children for whom mother is the PRP |    | \$ |

### Part IV. Parenting Time Adjustment

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

## State of Tennessee – Child Support Worksheet

### Part V. Additional Expenses

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

### Part VI. Presumptive Child Support / Modification of Current Support

|           |  |                          |
|-----------|--|--------------------------|
|           |  | <b>Obligation Column</b> |
| <b>16</b> | Presumptive Child Support Order (PCSO)<br>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 | <b>17a</b> | Current child support order amount for the payor parent              | \$ |  |
|   | <b>17b</b> | Amount required for significant variance to exist                    | \$ |  |
|   | <b>17c</b> | Actual variance between current and presumptive child support orders | \$ |  |

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

|   |           |   |    |
|---|-----------|---|----|
|   | <b>18</b> | Uninsured medical expenses (Recurring): | \$ |
| Deviations must be substantiated by written findings in the Child Support Order | <b>19</b> | Deviations (Specify):                   | \$ |
|   |           | _____                                   |    |
|   |           | _____                                   |    |
|   |           | _____                                   |    |
|   | <b>20</b> | 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**

|            |                            |    |  |
|------------|----------------------------|----|--|
| <b>21a</b> | Child Support Obligation   | \$ |  |
| <b>21b</b> | Medical Support Obligation | \$ |  |

The emergency rules set out herein were properly filed in the Department of State on the 3rd day of March, 2005, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 15th day of August, 2005. (03-03)



**DEPARTMENT OF STATE - 1360  
DIVISION OF CHARITABLE SOLICITATIONS  
CHARITABLE GAMING SECTION**

**CHAPTER 1360-3-2  
PROCEDURES FOR OPERATING CHARITABLE GAMING EVENTS**

**STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES**

Pursuant to TCA 4-5-208, I am promulgating emergency rules covering procedures for filing applications, amendments and financial accounting reports for organizations exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC) who have been authorized by the Tennessee General Assembly to operate charitable gaming events. The emergency rules are necessary because of TCA § 3-17-101 et seq.

I have made a finding that there is an emergency creating a danger to the public welfare in that there will not be a set of procedures explaining the procedures for filing initial applications, filing amendments, obtaining criminal history record checks and filing accounting reports, until permanent rules are promulgated by the Director of Charitable Solicitations as required by TCA § 3-17-115(b). Therefore, unless emergency rules establishing procedures are adopted, there would be no state regulation regarding the operation of charitable gaming events. The lack of such guidelines would be injurious to the public safety in Tennessee.

For copies of the entire text of the proposed rules, contact Barbara Toms, Director, Division of Charitable Solicitations, Department of State, 8<sup>th</sup> Floor, William R. Snodgrass Bldg., Nashville, TN 37243, 615-741-2555.

Barbara Toms  
Director of Charitable Solicitations  
State of Tennessee

**EMERGENCY RULES  
OF THE  
DEPARTMENT OF STATE  
DIVISION OF CHARITABLE SOLICITATIONS  
CHARITABLE GAMING SECTION**

**CHAPTER 1360-3-2  
PROCEDURES FOR OPERATING CHARITABLE GAMING EVENTS**

**NEW RULES**

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**1360-3-2-.01 DEFINITIONS.**

- (1) “Amended application”- means those items of information submitted to the secretary for the purpose of revising, correcting, adding to, or otherwise supplementing an initial application in order to meet the requirements of the Tennessee Charitable Gaming Implementation Law.
- (2) “Bona fide director, officer or employee”- For the purposes of eligibility to participate in the management or operation of an annual gaming event, a person is a bona fide director, officer or employee of the authorized organization only when he or she:
  - (a) Has become a director, officer or employee prior to the commencement of the annual gaming event and such position does not depend upon, nor is it in any way related to, the payment of consideration to participate in any gaming activity; and;
  - (b) Has held such status in the authorized organization for a period of not less than three (3) consecutive months prior to the subject annual gaming event.
- (3) “Conformed copy”. A conformed copy is a copy that agrees with the original and all amendments to it. If the original document required a signature, the copy shall either be signed by a principal officer or, if not signed, be accompanied by a written declaration signed by an authorized officer of the organization. With either option, the officer must certify that the document is a complete and accurate copy of the original. A certificate of incorporation shall be date stamped and show approval by an appropriate state official.
- (4) “Compensation” for purposes of TCA § 3-17-103(a)5(A)(i)(b) means anything of value received as a result of work performed on behalf of a §501(c)(3) organization, including, but not limited to, tips, reductions, and waivers of fees.
- (5) “Directors or officers of the organization” for purposes of TCA §3-17-104 (a)(12) means the entire slate of members of the governing body of an organization. An executive committee or subcommittee of a governing board shall not qualify as the directors or officers of the organization.
- (6) “Fair Market Value” means a price at which an unrelated buyer and seller would agree to a transaction; a valuation that is reasonable to all parties involved in a transaction, none of which are under a compulsion to buy or sell while having a reasonable knowledge of the relevant facts.
- (7) “Games of chance associated with casinos” includes casino night parties (also known as “Vegas Nights”, “Las Vegas Nights”, “Monte Carlo Nights”, casino parties) to raise money for a specific charitable cause by having each participant purchase a ticket for the event. Each participant receives a specific amount of play money that can be used to engage in various casino-type games (such as blackjack, roulette, baccarat, craps, poker, wheel of fortune, etc.) in an attempt to accumulate the largest amount of gaming chips. At the end of the event, the participant who managed to win the most chips receives some kind of prize.
- (8) “Initial application”- means the first application submitted by an organization seeking approval to hold an annual gaming event.
- (9) “Notice”, unless otherwise indicated, shall mean a written communication and forwarded by U.S. mail, certified return receipt requested.
- (10) “Operate”- means
  - (a) To run or control, directly or indirectly, the functioning of an annual gaming event;

- (b) To bring about a desired or proper effect including, but not limited to, planning, promoting, advertising, marketing, authorizing or entering into agreements, purchasing supplies, telephone services, gaming records or devices, buying or leasing services, facilities or locations, printing of materials and tickets, shares, chances or similar records and the transporting of such records and other devices;
  - (c) To conduct the affairs of an event including, but not limited to, on-site or off-site management;
  - (d) To complete the necessary federal tax forms and pay the regular gaming or backup withholding taxes.
- (11) “Organizational document” shall mean the record that establishes the organization as a legal entity and shall include, but not be limited to, a certified copy of the Articles of Incorporation (or charter), constitution, or trust agreement.
  - (12) “Physical Presence” means an organization has a physical office established and located within the state of Tennessee where regular business within the organization’s stated mission is transacted. The existence of a post office mailing address or drop box location is not sufficient to create a physical presence.
  - (13) “Pull-tab” means gaming pieces used in a game of chance that are made completely of paper or paper products with concealed numbers or symbols which must be exposed by the player to determine wins or losses. Pull tabs may also be known as break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven Cards, Nevada Club tickets, instant bingo cards.  
Page 5 of 24 pages.
  - (14) “Resubmission of application” means to re-file the entire application including all attachments and any necessary information which was omitted from the initial application.

**Authority:** TCA §3-17-115(a) and (b).

**1360-3-2-.02 APPLICATION SLIDING FEE SCALE.**

An application to hold an annual gaming event shall be submitted with the appropriate filing fee according to the organization’s gross revenue for the annual event based on the following scale:

| Event Gross Revenue        | Filing Fee |
|----------------------------|------------|
| \$0.00 to \$5,000.00       | \$150.00   |
| \$5001.00 to \$10,000.00   | \$300.00   |
| \$10,000.00 to \$20,000.00 | \$450.00   |
| over \$20,001.00           | \$600.00   |

**Authority:** TCA § 3-17-104(c)(2).

**1360-3-2-.03 APPLICATIONS FOR AUTHORIZATION TO HOLD AN ANNUAL GAMING EVENT- TIME TO SUBMIT APPLICATIONS.**

- (1) An application for authorization to hold an annual gaming event shall be submitted beginning July 1 and ending October 31st of each year.
- (2) When the first or last day to file an application is a non-business day (e.g., weekend, holiday), the first or last day to file is the first business day immediately following the date established by statute. (Example: July 1, the first day to file an application, is a Sunday. The first filing day is the first business day following Sunday.)

- (3) The date and time stamp endorsement of the Secretary shall determine whether an amendment is timely filed. An application submitted beyond the time set forth in the Act shall be automatically rejected.
- (4) Incomplete application. An application that does not comply with the provisions of the Act shall be rejected. The Secretary shall notify the applicant of the reasons for rejection of the application. Corrections to a deficient application shall be submitted no later than 12:00 noon, February 1 in the year subsequent to the filing of the application. If this date falls on a non-business day, the last day to file an amendment shall be 12:00 noon the last business day preceding the deadline date.

*Authority: TCA § 3-17-115(a) and (b).*

**1360-3-2-.04 PROOF OF ACTIVE AND CONTINUOUS EXISTENCE.**

- (1) In addition to the requirements set out in Public Chapter 476, as amended, §3-17-101 et. seq., an organization may submit as proof of its continuous and active existence, including, but not limited to, the following types of information:
  - (a) A copy of the last five (5) annual Forms 990, 990-EZ, or 990-PF filed with the Internal Revenue Service for the five (5) year period immediately preceding the date of application;
  - (b) If the organization is a corporation, a copy of the last five (5) annual reports filed with the Secretary's Business Services Division for the five (5) year period immediately preceding the date of application;
  - (c) Copies of the organization's written authorization to conduct charitable solicitation for the five (5) year period under consideration and which covers the five (5) year period immediately preceding the date of application.
  - (d) Copies of published annual reports of the organization for the five (5) year period under consideration and which covers the five (5) year period immediately preceding the date of application;
  - (e) Copies of audited financial statements prepared by an independent certified public accountant and which covers the five (5) year period immediately preceding the date of application;
  - (f) Copies of minutes of annual meetings duly recorded and attested to by the secretary of the organization and which covers the five (5) year period immediately preceding the date of application;
  - (g) Copies of grant approval and continuation notices received by the organization and which covers the five (5) year period immediately preceding the date of application; and/or
  - (h) Copies of printed advertisements for the organization showing the date of publication of the advertisement and which covers the five (5) year period immediately preceding the date of application.
- (2) An organization may submit copies of documents from two or more types as indicated above, so long as documents cover the five (5) year period immediately preceding the date of application. (Example: Organized in 1995, organization was not required to file IRS Form 990 until Year 2001. An annual event application is filed July 1, 2004. It may submit Forms 990 for years 2001, 2002, 2003 and annual reports filed with Business Services Division for years 1999 and 2000.
- (3) Acceptable documents must be authentic, genuine or bona fide documents. Copies of documents must be conformed copies.

*Authority:* TCA § 3-17-104(a)(6); TCA § 3-17-115(b).

**1360-3-2-.05 PROOF OF §501(C)(3) TAX EXEMPT STATUS AND PURPOSE(S).**

- (1) Chapters or Affiliates. An organization which is a chapter or affiliate operating under a Section 501(c)(3) group exemption must have its own federal employer identification number and shall submit the following documents in support of its tax exempt status:
  - (a) The Letter of Determination of the parent organization assigned by the Internal Revenue Service which includes the group's 4-digit tax exemption number;
  - (b) A list of all chapters and affiliates under the group exemption as submitted by the parent organization to the Internal Revenue Service, including the federal tax identification number and physical address of each chapter or affiliate;
  - (c) A written statement from the parent organization that the applicant is in good standing with the parent organization;
  - (d) A properly executed Affidavit of the organization's 501(c)(3) status [Secretary of State Form SS-6060]; and,
  - (e) A copy of the organizational document.
- (2) An organization recognized as exempt from federal income taxation by the Internal Revenue Service prior to October 9, 1969, that would otherwise qualify as a 501(c)(3) organization shall, in addition to the requirements of TCA §3-17-103, submit the following documents in lieu of IRS form 1023 in support of its tax exempt status/purpose(s):
  - (a) A detailed narrative of all of the activities of the organization. List each activity in order of importance based on the relative time and resources devoted to the activity. Indicate the percentage of time for each activity; and
  - (b) A Statement of Revenue and Expenses for the five (5) years immediately preceding the period under consideration.)
- (3) For purposes of clarification, these regulations adopt the following language of the Internal Revenue Service: The exempt purposes of §501 (c)(3) organizations are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and the prevention of cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; lessening of neighborhood tensions; elimination of prejudice and discrimination; defense of human and civil rights secured by law; and combating community deterioration and juvenile delinquency.
- (4) To be tax-exempt as an organization described in IRC Section 501(c)(3), an organization must be organized and operated exclusively for one or more of the purposes set forth in this code section and none of the earnings of the organization may benefit or provide any advantage to any private shareholder or individual.

*Authority:* TCA § 3-17-115(a) and (b).

**1360-3-2-.06 DESCRIPTION OF THE GAMES.**

Severe penalties may be imposed for violation of the Act including the playing of an unauthorized type of game. Therefore it is essential that any chosen game of chance fall within the permissive language of the Act. Every application seeking authorization to hold an annual gaming event must provide a written description of a “Rules of Play”. Rules of Play means a detailed written explanation and description of the game in the nature of a description associated with a board game. Relevant information should include the details of what the game is, how it is operated by the organization and how it is played by a contestant or player.

*Authority: TCA § 3-17-115(a) and (b).*

### **1360-3-2-.07 PROHIBITED/ALLOWED TYPES OF GAMES.**

- (1) The playing of bingo or a similar game under another name (e.g. “Lotteria”) at an annual gaming event is expressly prohibited. The following types of games are also prohibited during the conduct of any annual gaming event:
  - Video lottery
  - Slot machines
  - Roulette wheels
  - Blackjack
  - Other games of chance associated with casinos
  - Craps
  - Pull tabs
  - Punchboards
  - Instant bingo
  - Instant and on-line lottery games of a type operated by the Tennessee education lottery corporation
- (2) The following list provides some guidance as to the types of games which shall be allowed. This list is not intended to include every type of authorized game.
  - Raffles
  - Reverse Raffles
  - Lotteries
  - Sweepstakes
  - Duck Races
  - Cakewalks
  - Cake wheels
- (3) All organizations must comply with the provisions of the Act, including an organization that intends to conduct a cash or prize giveaway and give some, but not all, persons wishing to participate an opportunity to do so without requiring the payment of any money or other consideration, the making of a donation, or the purchasing of a product or service.

*Authority: TCA § 3-17-115(a) and (b).*

### **1360-3-2-.08 ACTION BY BOARD OF DIRECTORS.**

- (1) Governing body (e.g., board of directors, trustees). The organization must disclose in the annual event application the total number of members of its governing body for the period in question and the name and address of each member.
- (2) Meeting minutes. The governing body shall meet, either by regular or special meeting, if it intends to operate an annual gaming event. Unless otherwise provided

by its by-laws, the meeting may be conducted through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. Action taken by consent without a meeting (e.g., consent communicated by e-mail or facsimile transmission) is not authorized by the Act.

- (3) The minutes shall reflect an affirmative vote by a majority of all current members of the governing body and must be signed and attested by the board secretary.
- (4) Affidavit in lieu of minutes. In lieu of regular or special minutes of the board of directors, an organization shall submit an affidavit (Secretary of State Form SS-6062) indicating the date of the meeting, the total number of directors or trustees present, and the number casting an affirmative vote to operate a gaming event. The affidavit must bear the notarized signature of all members of the governing body, whether or not a member attended the meeting or voted in the affirmative to operate an event.

*Authority: TCA § 3-17-115(a) and (b).*

### **1360-3-2-.09 AMENDMENT PROCESS- CONFLICTING LOCATIONS, OTHER AMENDMENTS.**

- (1) In addition to the requirements §3-17-104 and 3-17-105(b), all organizations must provide either an e-mail address or fax number in order to facilitate speedy communication. Organizations must respond to requests from the secretary within 10 days but in no event shall a response be received later than 24 hours prior to any filing deadline.
- (2) An amendment form (SOS Form No. SS-6065) shall be used to notify the secretary of a change of location, or any other amendment. An organization may fax a completed amendment form to the Charitable Gaming Section at 615-253-5173. Forms may be obtained from the Charitable Gaming Section and are also available on the secretary of state's website: <http://www.state.tennessee.gov/sos/charity/gaming.htm>.
- (3) Amendments shall be accepted for filing until 12:00 Noon, February 1 of each year subsequent to the filing of the application. The date and time stamp endorsement of the Secretary shall determine whether an amendment is timely filed. In accordance with the provisions of §3-17-105(d)(2)(A), the secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment thereto, submitted after the application deadline has passed for the appropriate annual event period.
- (4) Annual Event Location Changes:
  - (a) Only two annual events can be held at any location during a calendar month. Only one organization can use a location that has previously been approved for another organization during that month. Example: ABC organization has an event at 1 Highway, Anytown, Tennessee on July 4, 2004. A second organization has also scheduled an annual event in July at that location. No other organization can use the same location for its event during the month of July, 2004, even if the event is on a different date.
  - (b) An address which has multiple suites or units at the same location shall be counted as one location for purposes of choosing an annual gaming event location. If it becomes necessary for an organization to change the date of its annual gaming event due to a conflict or unavailability of a chosen location, an amendment form (SOS Form No. SS-6065) must be filed with the Secretary specifying the location which caused the conflict and the full address/location of the new proposed location which has been chosen. Amendments shall not be accepted for filing after the amendment deadline.
- (5) Annual Event Date Changes:
  - (a) Conflicting Dates- Only two organizations shall be allowed to hold an annual gaming event at a

facility during any calendar month. Annual gaming event dates will be approved on a first-come, first-serve basis as determined by the date stamp on the application. If the secretary receives an application which designates the same location for an event which has already been approved for two other organizations, notice will be provided to the organization of the conflict. In order to expedite the notice process, the secretary will provide notice by e-mail or facsimile message. If an organization must change its annual gaming event date in order to correct or avoid a conflict with another organization, an amendment form must be filed with the Secretary specifying the event date which caused the conflict, the full address/location of the proposed event and the new date which has been chosen. Amendments shall not be accepted for filing after the application deadline. Because amendments cannot be accepted after the application deadline, an organization should plan carefully and file its application well in advance of the October 31<sup>st</sup> deadline for receipt of applications and the February 1<sup>st</sup> deadline for receipt of amendments so that a change of event date will not be barred by the filing deadline.

- (b) Changes of Event Date within Fourteen (14) days of Event- Sometimes it may become necessary for an organization to change the date of its annual gaming event. Public Chapter 476, as amended, § 3-17-102 (d)(1)(A) allows an organization to hold an event within fourteen (14) days of the date listed in its application. All event date amendments must be filed with the office of the Secretary of State including changes for an event date scheduled within 14 days of the original annual event date. In addition, notice of event date changes must be filed with the local law enforcement officer. In accordance with the provisions of §3-17-102(a)(1), except as indicated above, the Secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment thereto, submitted after the application deadline has passed for the appropriate annual event period. Because amendments cannot be accepted after the application deadline, an organization should plan carefully and file its application well in advance of the October 31<sup>st</sup> deadline for receipt of applications and the February 1<sup>st</sup> deadline for amendments so that a change of event date will not be barred by the filing deadline.
- (c) The fourteen (14) calendar day period prescribed by §3-17-102(d)(1)(A), within which an organization must hold an annual gaming event, may be counted beginning fourteen days prior to the event date listed in the annual event application or fourteen days after the event date listed in the annual event application.

*Authority: TCA § 3-17-105(b); TCA § 3-17-115(a) and (b).*

### **1360-3-2-.10 CONDUCT OF THE GAMES.**

- (1) Advertising. Nothing in the act shall be construed as prohibiting an organization from accepting donations of advertising services. For purposes of this part, however, granting permission to post flyers for an event on the premises of a vendor shall not be construed as donating advertising services.
- (2) Ticket Sales and Sale of Similar Records. Persons under the age of eighteen (18) are prohibited from selling or purchasing tickets and similar records for charitable gaming activities.
- (3) Officer(s) Responsible for Gross Receipts. – The authorized organization shall duly designate an officer/officers of said organization to be in full charge and primarily responsible for the proper accounting, use and disposition of all gaming event receipts. Such officer(s) name shall appear on the list required under Public Chapter 476, §3-17-104 (a) (20) and (21).
- (4) Payment of Workers Prohibited. No commission, salary, compensation, reward, recompense, reimbursement of expenses, or gift or other consideration shall be paid directly or indirectly, to any person for conducting or assisting in the conduct of any annual gaming event except as hereinafter provided for bookkeepers or accountants who assist by rendering their professional services.



No tip, gratuity or gift or other consideration shall be given or accepted by any person conducting or assisting in the conduct of an annual gaming event either directly or indirectly.

- (5) Regular Salary or Wages for Employee not “Compensation”. The regular salary or wages of a regular and full time employee, or a regular but part-time employee shall not be considered to be “compensation” within the meaning of the Act when it is performed by a person who has been regularly employed by the authorized organization and when all of the following conditions are met:
  - (a) The position held by the employee has been created for the purposes unrelated to the conduct of the annual gaming event and the required performance of duties is generally unrelated to the annual gaming event. The employee’s contribution to an annual gaming event must be an incidental part of his or her total duties consisting of less than 10% of the total time worked for the organization; and
  - (b) The employee is paid on a recurring basis at a regular and established rate of pay throughout the calendar year, unrelated to the income produced by the annual gaming event; and
  - (c) The employee does not operate any game of chance at any function conducted by the organization but confines his or her services in connection with the annual gaming event to assisting the organization’s other employees with the overall planning and organization of the event with supervision of the supporting services for the event.

**Authority:** TCA § 3-17-115(a) and (b).

### **1360-3-2-.11 CRIMINAL BACKGROUND CHECKS.**

- (1) Effective Date. Beginning July 1, 2005, criminal background checks conducted by the TBI may be required by the secretary.
- (2) Persons Subject to Criminal Background Checks. Fingerprint-based criminal background checks may be required of officers, directors, trustees, principal salaried executive staff officers and any person operating an annual event on behalf of a 501(c)(3) organization. Persons who do not receive any compensation for their duties associated with the 501(c)(3) organization shall not be subject to criminal background checks.
- (3) Criteria for requiring Criminal Background Checks. Upon a determination by the secretary that a criminal background check is required of a person in connection with an annual gaming event held by a 501 (c) (3) organization, the application of such organization shall not be considered until such background check has been completed and the results of the background check are received in the office of the secretary of state. In the event that information is revealed in the background check which would be a violation of a provision of the Act, the secretary shall give notice to the affected organization and allow them an opportunity to cure the disqualifying situation by disassociating such person or persons from taking any action on behalf of such organization. The organization shall submit to the secretary, an affidavit, signed by the chief operating officer and the treasurer of the organization, setting forth what action has been undertaken by the organization to disassociate the individual/ individuals.
- (4) Procedure for Obtaining Criminal Background Checks. Upon notification by the secretary that a criminal background check is required, the person notified shall take immediate steps to secure the background check. Persons who receive a request from the secretary to submit to a criminal background check shall contact the then current state of Tennessee fingerprinting service to obtain information on the proper location and procedure for having the background check run. The current vendor for the state of Tennessee is Sylvan Identix Fingerprinting Centers. The toll free number is 1-866-226-2937. Persons must provide identifying information, the reason for being printed and name of the “Division of Charitable Solicitations, Charitable Gaming Section” as the entity for whom the prints are requested. Background checks will include data

from a dual TBI & FBI search. At the time of the printing, the person must provide identification to verify his/her identity. A driver's license, passport, military ID or similar identification should be provided. The applicant shall be responsible for paying all costs associated with obtaining a criminal history background check.

The results of the background search will be provided directly to the Secretary of State's Division of Charitable Solicitations, Charitable Gaming Section. Results of background checks may be challenged by contacting the TBI. A form is available for download from the TBI web site at [www.tbi.state.tn.us](http://www.tbi.state.tn.us) or by contacting the TBI directly.

- (5) Information from Law Enforcement Agency. The secretary may require a criminal background check on any person based upon information received from a local, state or federal law enforcement agency indicating a violation of the law involving theft, misappropriation of funds, or any matter which would impact the legitimate operation of an annual gaming event. For purposes of this provision, law enforcement agency shall include the Internal Revenue Service.
- (6) Denial of Application to Conduct Annual Gaming Event. The secretary may deny an application to operate an annual gaming event based upon the results of a criminal background check. In addition, the secretary may impose a civil penalty if the background check shows a violation of the Charitable Gaming Implementation Law.

Penalties shall be determined based upon the rules for disqualification located below at section 1360-3-2-.14.

**Authority:** TCA § 3-17-114; TCA § 3-17-115(a) and (b).

### **1360-3-2-.12 ACCOUNTING PROCEDURES.**

- (1) Records:
  - (a) Record Keeping. Accurate records shall be kept by each authorized organization in a manner which shows in detail the amount and source of gross receipts, the expenses incurred and the name and address of each person receiving a prize over fifty (\$50.00) dollars and the value of the prize.
  - (b) Access to Records. The Secretary of State, the Attorney General and Reporter and the Tennessee Bureau of Investigation or their authorized agents or representatives shall at all times have access to all books and records of any authorized organization for the purpose of examining and checking them.
  - (c) Period of Retention of Records. All records, books of account, bank statements and all other papers incidental to the operation of an annual gaming event shall be retained and available for inspection by the secretary of state and the Tennessee Bureau of Investigation or their authorized agents or representatives for a period of at least five (5) years after the date of the annual gaming event to which they relate.
  - (d) Bank Accounts. Proceeds from annual gaming events shall be kept in a separate annual events gaming account which shall be in the form of a checking account. All receipts from the annual gaming event less the amount awarded as cash prizes for the event shall be deposited to this special account no later than the next business day following the date of the annual gaming event. Gaming proceeds from the sale of tickets, shares, chances, or similar records shall be deposited the next business day when ever possible but in no event later than seventy two (72) hours after the conclusion of the annual gaming event. All prizes, whether paid by cash or check, shall be paid from this account. Money shall be withdrawn from this special account for only the following purposes:

1. Payment of expenses;
  2. Disbursement from Net Proceeds for a lawful purpose; and,
  3. The commingling of any funds derived from the operation of an annual gaming event with any other funds of the authorized organization is prohibited.
- (e) Payment of Expenses. Money for reasonable and necessary expenses may be paid from gross receipts only by checks having preprinted consecutive numbers drawn on the organization's account. Said checks must be made payable to the specific person or corporation providing the goods or rendering the service which gives rise to the expense item and at no time may checks be payable to "cash" or "bearer". Only those expenses which are reasonable and necessary and ordinarily incidental to the conduct of the annual gaming event may be paid from the gross receipts or otherwise.
- (f) Donated Prizes, Goods, or Services. The organization shall disclose the fair market value of all prizes, good and services.

*Authority: TCA § 3-17-115(a) and (b).*

**1360-3-2-.13 PROOF THAT NET EVENT PROCEEDS WERE USED FOR CHARITABLE PURPOSE.**

- (1) An organization applying to hold an annual gaming event must state its charitable purpose. An organization's charitable purpose shall not conflict with the purpose approved by the Internal Revenue Service in response to the organization's application for recognition of exempt status. An organization may use a copy of its IRS form 1023 application, Part II. Activities and Operational Information to prove its charitable purpose. A tax exempt charitable organization which was created prior to October 9, 1969 may submit a copy of documents listed in 1360-3-2-.04(1) above.
- (2) The Charitable Gaming Section will look first to the Charitable Gaming Financial Accounting Report form (SOS Form SS-6066) to determine what expenditures the organization considered as being used for its charitable purpose.
- (3) Cancelled checks which state the purpose of the payment and which identify and are endorsed by the payee shall be one form of acceptable documentation.
- (4) A copy of the organization's balance sheets and monthly statements should be provided to substantiate that funds have been earmarked.

*Authority: TCA § 3-17-115(a) and (b).*

**1360-3-2-.14 DISQUALIFICATIONS/CIVIL PENALTIES.**

- (1) Any violation of the Tennessee Charitable Gaming Implementation Law shall be a basis for disqualification or the imposition of civil penalties. Civil penalties may be assessed for the violation of either civil or criminal provisions of the Act.
- (2) An organization that loses its tax exempt status shall be ineligible to hold an annual gaming event. The years for which the tax exempt status was not in effect shall not be countable as part of the period of active and continuous operation. If the Internal Revenue Service revokes an organization's tax exempt status and the revocation is made retroactive, the period of retroactivity will not be countable as part of the period of active and continuous operation.

## Emergency Rules

- (3) Organizations which are tax exempt under a provision of the Internal Revenue Code other than section (501)(c)(3) are not eligible to conduct annual gaming events.
- (4) A period of disqualification shall run from the date of application, the date of discovery of the violation or the date of imposition of the disqualification, whichever is later. The table below summarizes possible violations of the Act and the resulting period of disqualification or penalty.

| Nature of Disqualification   | Period of Disqualification  |
|--|---|
| 1. Application was not submitted by April 20, 2004 and organization operated annual gaming event. §3-17-103  | 1. Twelve (12) month Annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).  |
| 2. Organization has not been in continuous existence for 5 years prior to the event date. §3-17-101 and 103  | 2. Disqualified until organization has been in existence for five years.  |
| 3. Organization is not a qualified 501(c)(3) organization. §3-17-103   | 3. Until organization proves 501 (c)(3) status. Note: No applications or amendments can be accepted after application period has ended.             |
| 4. Organization's 501(c)(3) status was revoked and has not been reinstated by IRS§3-17-102.  | 4. Until organization provides proof of reinstatement of 501 (c)(3) status.   |
| 5. Organization conducted more than (1) one annual gaming event during annual gaming event period (July 1-June 30). §3-17-103(a)(3)(A)                   | 5. Permanent Disqualification. Secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).                       |
| 6. Organization operated annual gaming event at more than one location during annual gaming event period. §3-17-103(a)(3)(B)(i)                          | 6. Permanent Disqualification. Secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).                       |
| 7. Organization operated annual gaming event in county where it did not have a physical presence. §3-17-103(a)(3)(B)(i)                                  | 7. Permanent Disqualification. Secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).                       |
| 8. Organization failed to timely file an event application and organization operated annual gaming event. §3-17-103(a)(1)(A)(B) and (C) and §3-17-104(a) | 8. Twelve (12) month Annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).  |
| 9. Organization previously withdrew application to hold an annual gaming event and organization operated annual gaming event. §3-17-105(e)               | 9. Twelve (12) month Annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).  |
| 10. Organization cancelled annual gaming event and organization operated annual gaming event. §3-17-106(f)(1)  | 10. Twelve (12) month Annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000). |

## Emergency Rules

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| <p>11. Organization employed, contracted with or otherwise utilized the services of a person, management company, consultant or other entity to manage, conduct or operate any aspect of an annual gaming event. §3-17-103(a)(5)(A)(i)</p>                | <p>11. Twelve (12) month Annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>12. Proceeds of annual gaming event were used to pay a bonus, supplement or adjustment of compensation for a director, officer, employee, or employee of the organization. §3-17-103(a)(5)(A)(i)(b)</p>  | <p>12. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>13. Proceeds of annual gaming event were used to pay compensation (outside of regular compensation) to a director, officer, employee, or member of the organization for duties in connection with an annual gaming event. §3-17-103(a)(5)(A)(i)(b)</p> | <p>13. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>14. Prohibited type of lottery game §3-17-102(8)(A)</p>  | <p>14. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>15. Organization's event participation was not authorized by General Assembly. §3-17-102</p>   | <p>15. Refer for criminal prosecution. Secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>16. Annual gaming event was held more than 14 days prior to or after date listed in annual gaming event application. §3-17-103d)(1)(A)</p>   | <p>16. Twelve (12) month annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>17. Organization whose name does not appear on Omnibus List planned, promoted or advertised an annual gaming event. §3-17-111a)</p>  | <p>17. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>18. Organization sold tickets, shares, chances or similar items outside of period allowed by statute (NOTE: 120 days prior to date listed in application plus up to and including actual event date §3-17-103d)(3)</p>                                 | <p>18. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>19. Less than 25% of proceeds of annual gaming event allocated or used for charitable purposes. §3-17-103a)(6)(A)</p>  | <p>19. Good cause shown- may hold event next year. No good cause shown or failure for two consecutive years, permanent disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p> |

## Emergency Rules

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| <p>20. Organization failed to file accounting within 90 days following annual gaming event date listed in application. §3-17-106</p>   | <p>20. Five (5) year disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>               |
| <p>21. Organization failed or refused to sign waiver of privacy rights statement to provide public web access to filed documents. §3-17-104(a)(9)</p>  | <p>21. Twelve (12) month annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p> |
| <p>22. Person violated annual gaming event statute or has been convicted of violation of 39-16-702, 39-16-703, Title 39, chapter 17 parts 5 or 6 or similar offense in another jurisdiction. §3-17-111(a)</p>  | <p>22. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                   |
| <p>23. Organization held two or more annual gaming events within annual gaming event period. §3-17-103(d)(1)(A)</p>  | <p>23. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                   |
| <p>24. Complete Application or amendment was not submitted by application deadline. §3-17-103</p>  | <p>24. Twelve (12) month annual gaming event period and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p> |
| <p>25. Organization failed to file proper accounting. §3-17-106(b)</p>   | <p>25. Five (5) year disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>               |
| <p>26. Organization failed to maintain true and accurate records §3-17-108(a)(1)</p>   | <p>26. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                   |
| <p>27. Organization failed to maintain records for 5 years after event date. §3-17-108(a)(2)</p>   | <p>27. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                   |
| <p>28. Organization purchased, leased or accepted donations of prizes, facilities, advertising services, printing services telephone services or records, devices or other supplies to conduct an annual gaming event from a person, company, corporation or other business entity which has had a final judgment in excess of twenty-five thousand dollars rendered against such person or entity and such judgment has not been satisfied. §3-17-103(a)(5)(B)(iii)</p> | <p>28. Civil penalty not to exceed five hundred dollars (\$500) for each violation No Disqualification.</p>  |

## Emergency Rules

| <p>29. Organization purchased or leased prizes, facilities, locations, advertising services, printing services telephone services or records, devices or other supplies to conduct an annual gaming event at a price greater than fair market value, for a percentage of the proceeds of the annual event, or a contingency agreement based on the proceeds of the annual event. §3-17-103 (a)(5)(B)(i)</p> | <p>29. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
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| <p>30. Organization purchased or leased prizes, facilities, locations, advertising services, printing services telephone services or records, devices or other supplies to conduct an annual gaming event from a director, officer, or employee in violation of §3-17-103(a)(5)(B)(ii)</p>  | <p>30. Permanent Disqualification and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| CRIMINAL OFFENSES   | CRIMINAL PENALTIES   |
| <p>31. Knowingly selling tickets for a period of time longer than authorized§39-17-651(a)</p>   | <p>31. Class C Misdemeanor and /or maximum fine of \$1,000 per day and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>32. Knowingly conducting more than one annual gaming event within a 12 month period. §39-17-652b</p>   | <p>32. Class A misdemeanor plus maximum fine of \$50,000 per event and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>33. Knowingly conducting an event at an unauthorized location or on an unauthorized date. §39-17-653 (a) and (b)</p>   | <p>33. Class C misdemeanor and/or maximum fine of \$10,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>34. Knowingly promoting unauthorized gambling under pretext of an annual event. §39-17-654(a)(1)</p>   | <p>34. Class E felony and/or the greater of \$50,000 or proceeds of the gambling and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                          |
| <p>35. Knowingly employ, contract with, or otherwise use the services of any person, management company, or consultant to manage conduct or operate an annual gaming event. §39-17-654(b)(1)</p>  | <p>35. Class A misdemeanor and/or maximum fine of \$50,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>36. Unauthorized person knowingly operates annual event. §39-17-654(c)(1)</p>  | <p>36. Class D felony. Greater of \$50,000 fine or the amount paid to manage, conduct, or operate the event and secretary of state may assess a civil penalty not to exceed fifty thousand dollars(\$50,000)</p> |

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| <p>37. Knowingly fail to file a financial accounting. §39-17-655(a)(1)</p>  | <p>37. Class B misdemeanor and or maximum fine the greater of \$25,000 or event proceeds and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                   |
| <p>38. Knowingly fail to timely file a financial accounting. §39-17-655(a)(2)</p>   | <p>38. Class C misdemeanor and/or maximum fine the greater of \$5,000 or event proceeds and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>                    |
| <p>39. Make a material false statement in an application, affidavit or statement to Secretary. §39-17-655(a)(3)</p>   | <p>39. Class A misdemeanor and/or maximum fine of \$50,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>40. Make a material false entry or statement in a financial accounting. §39-17-655(a)(4)</p>   | <p>40. Class A misdemeanor; maximum fine the greater of \$50,000 or dollar amount of false entry or statement. Secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p> |
| <p>41. Falsely make, alter, forge, pass or counterfeit a ticket, share, chance, or similar record for an annual event with the intent to defraud. §39-17-656(a)</p>   | <p>41. Class A misdemeanor. Maximum fine of \$25,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>   |
| <p>42. Knowingly influence or attempt to influence the winning of a prize through coercion, fraud, deception, or tampering. §39-17-656(b)</p>   | <p>42. Class E felony. Maximum fine of \$50,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |
| <p>43. Knowingly sell, lease or offer to sell, lease facilities, locations, advertising, printing or telephone services, gambling records or gambling devices based on a percentage of the proceeds or any other contingency agreement based on the proceeds of an annual gaming event. §39-17-657(a)</p> | <p>43. Class E felony. Maximum fine of \$50,000 and secretary of state may assess a civil penalty not to exceed fifty thousand dollars (\$50,000).</p>  |

*Authority: TCA § 3-17-113(a); TCA § 3-17-115(a) and (b).*

**1360-3-2-.15 CO-OPERATION WITH OTHER STATE AGENCIES.**

- (1) All information submitted to the Division of Charitable Solicitations, Charitable Gaming Section shall be available to federal, state or local agencies for the purpose of assisting in carrying out the provisions of TCA 3-17-102 et. seq. and TCA 39-16-702 and TCA 39-16-703 and TCA title 39, chapter 17 Parts 5 and 6, TCA § 39-17-502(b), TCA § 39-17-505, TCA § 39-17-506(a), TCA § 39-17-601, TCA § 39-17-651 et. seq. and Title 3, Chapter 15, or any provision of federal law.



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- (2) The secretary shall assist and co-operate with the Tennessee Bureau of Investigation and/or the Internal Revenue Service in the conduct of any investigation.

*Authority: TCA § 3-17-115(a) and (b).*

The emergency rules set out herein were properly filed in the Department of State on the 4th day of March, 2005, and will be effective from the date of filing for a period of one hundred sixty-five (165) days. These emergency rules will remain in effect through the 16th day of August, 2005. (03-01)

**THE TENNESSEE DEPARTMENT OF CHILDREN’S SERVICES - 0250  
SOCIAL SERVICES DIVISION**

**CHAPTER 0250-7-13  
ADOPTION PROCESS FORMS**

Presented herein are proposed amendments of the Department of Children’s Services, Adoption, Foster & Kinship Care Division, submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Adoption, Foster & Kinship Care Division to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Children’s Services, 8<sup>th</sup> Floor, Cordull Hull Building, 436 6<sup>th</sup> Avenue N., Nashville, TN 37243, and in the Department of State, 312 8<sup>th</sup> Ave. North, 8<sup>th</sup> Floor, Snodgrass Tower, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments, contact: Carolyn S. Jones, Program Coordinator, 436 6<sup>th</sup> Ave. N., 8<sup>th</sup> Floor, Cordell Hull Building, Nashville, TN 37243, 615-532-5637.

The text of the proposed amendments as follows:

**AMENDMENTS**

Paragraph (3) of rule 0250-7-13-.15 Adoption Consent Form for Minor Who is Fourteen (14) Years of Age is amended by deleting the “Note to the Court” at the bottom of the form so that as amended the paragraph shall read:

(3) Form:

**CONSENT TO ADOPTION BY MINOR WHO IS FOURTEEN (14) YEARS OF  
AGE OR OLDER  
TENNESSEE CODE ANNOTATED, § 36-1-117(I)**

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

Being duly sworn according to law, affiant would state:

1. I am \_\_\_\_\_, (Use the Name of Minor Child Prior to any Name Change Requested in the Petition, Fourteen (14) years of age or older), Born \_\_\_\_\_ (Date Of Birth).

2. I understand that \_\_\_\_\_, (Name of Prospective Adoptive Mother), and \_\_\_\_\_, (Name of Prospective Adoptive Father) have filed a Petition to Adopt me.

3. I understand that if the Court enters an order of adoption based upon the Petition, that I will become the legal child of \_\_\_\_\_, (Name of Prospective Adoptive Mother), and \_\_\_\_\_, (Name of Prospective Adoptive Father), and that they will become my parent(s) for all purposes, just the same as if I had originally been born to them (him/her).

4. I understand that, while I remain under eighteen (18) years of age, my adoptive parent(s) will have the right to determine if I should contact or visit with anyone in my birth family.

5. I understand that I will have the right to inherit property from my adoptive parent(s), and their (his/her) descendants will have the right to inherit property from me or my descendants but only for property I acquire after the adoption order is entered. After the order of adoption is entered, I will not inherit property from my birth family, nor will they inherit property from me after the order of adoption is entered. I may inherit from or through a parent whose rights

were not terminated before his or her death.

6. No one has pressured me to agree to this adoption, and I believe that my adoption by \_\_\_\_\_, (Name of Prospective Adoptive Mother), and \_\_\_\_\_, (Name of Prospective Adoptive Father), is in my best interests. I wish for the adoption to take place.

7. I freely and voluntarily, without pressure from anyone, consent to this adoption.

This the \_\_\_ day of \_\_\_\_\_, 20\_\_

FURTHER AFFIANT SAITH NOT

Please Print: \_\_\_\_\_  
Name of Minor Child

Signature: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 20\_\_

Please Print: \_\_\_\_\_  
\_\_\_ Chancellor \_\_\_ Circuit Judge of the  
Court for \_\_\_\_\_  
County, Tennessee.

Signature: \_\_\_\_\_

**Authority:** T.C.A. §§ 4-5-201, et seq., 36-1-117(i), 36-1-125, 36-1-141, Public Chapter 532 (1995), Executive Order #6, January 12, 1996.

Paragraph (3) of rule 0250-7-13-.16 Adoption Consent Form for Use by Guardian Ad Litem for Minor Who is Fourteen (14) Years of Age and Who is Mentally Disabled is amended by including a “Note to the Court” at the bottom of the form so that as amended the paragraph shall read:

(3) Form:

**CONSENT BY GUARDIAN AD LITEM TO ADOPTION OF MENTALLY  
DISABLED MINOR WHO IS FOURTEEN (14) YEARS OR OLDER  
TENNESSEE CODE ANNOTATED, § 36-1-117(I)**

**STATE OF TENNESSEE**  
**COUNTY OF \_\_\_\_\_**

Being duly sworn according to law, affiant would state:

1. I am, \_\_\_\_\_, Guardian Ad Litem for the minor child, \_\_\_\_\_, who is fourteen (14) years of age or older and is mentally disabled.

2. I have been appointed by this Court to represent the best interests of this child in the petition for his/her adoption by \_\_\_\_\_, (Name of Prospective Adoptive Mother), and \_\_\_\_\_, (Name of Prospective Adoptive Father). \*See Note Below

3. I have investigated the circumstances of the proposed adoption, and have attached hereto my written report giving the basis for my decision to give or withhold consent to the adoption of this child by the petitioners.

4. Based upon my investigation and report, I  give consent/ withhold consent to the adoption of \_\_\_\_\_, (Name of Child) by the petitioners.

This the \_\_\_ day of \_\_\_\_\_, 20\_\_

FURTHER AFFIANT SAITH NOT.

Please Print: \_\_\_\_\_  
(Name of Guardian Ad Litem)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Sworn to and subscribed before me this the \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

NOTE TO THE COURT:

A guardian ad litem must be appointed by the court to represent the child before this Consent is received, and must be present at the time the Consent is received by the Court. The consent shall be filed with the record of this case. The consent must be recited in the order of adoption T.C.A. § 36-1-117(i).

**Authority:** T.C.A. §§ 4-5-201, et seq., 36-1-117(i), 36-1-125, 36-1-141, Public Chapter 532 (1995), Executive Order #6, January 12, 1996.

The proposed rules set out herein were properly filed in the Department of State on the 10th day of March, 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 29th dya of July, 2005. (03-19)

**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-1-2  
ADMINISTRATIVE RULES AND REGULATIONS**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Debra E. Owens, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**AMENDMENT**

Paragraph (7) of Rule 0520-1-2-.03 Teaching Personnel in Gifted Education is amended by deleting the paragraph in its entirety and substituting instead the following language so that as amended the new rule shall read:

(7) Teaching Personnel in Gifted Education

- (a) A classroom teacher in special or general education providing direct instruction to students identified by state criteria as intellectually gifted students shall meet the following employment standards:
  - 1. The teacher shall be endorsed in the appropriate general education area or must hold the appropriate special education endorsement and
  - 2. The teacher shall meet one of the following standards:
    - (i) The teacher shall work in consultation with a teacher who meets the standards for consulting teachers listed in (b) or
    - (ii) The teacher shall have completed six semester hours of college or university course work or the equivalent contact hours in teaching gifted students approved by the Department of Education or
    - (iii) The teacher shall hold an endorsement in gifted education.
- (b) A consulting teacher in special or general education who works with other teachers or who teaches classes especially designed for gifted students in grades prekindergarten through twelve shall meet the following employment standards:
  - 1. The consulting teacher shall be endorsed in the appropriate general education area or must hold the appropriate special education endorsement and
  - 2. The consulting teacher shall meet one of the following standards:

- (i) The consulting teacher shall have completed six semester hours of college or university coursework or the equivalent contact hours in teaching gifted students approved by the Department of Education or
  - (ii) The consulting teacher shall hold an endorsement in gifted education.
- (c) An individual who serves as a gifted education coordinator in special or general education shall meet one of the following employment standards:
- 1. The individual shall hold an educator license with an endorsement in gifted education or
  - 2. The individual shall hold a educator license and shall have completed six semester hours of college or university coursework or the equivalent contact hours in teaching gifted students approved by the Department of Education or
  - 3. The individual shall hold a license endorsed in one of the following, beginning administrator, professional administrator, administration/supervision or supervisor of instruction.

A classroom teacher who was endorsed in special education prior to September 1, 1989 and who served gifted students prior to July 1, 1988, may continue to teach eligible intellectually gifted students, provided that they have completed an in-service training program approved by the Department of Education.

*Authority: T.C.A. § 49-1-302.*

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (05-05)

**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-1-3  
MINIMUM REQUIREMENTS FOR THE APPROVAL OF PUBLIC SCHOOLS**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Debra E. Owens, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**AMENDMENT**

Paragraph (9) of Rule 0520-1-3-.03 Administration of Schools, Requirement B is amended by deleting the paragraph in its entirety and substituting instead the following language so that as amended the paragraph shall read:

- (9) Student Evaluation in Grades Kindergarten through grade 8.
  - (a) The student evaluation program for grades kindergarten through grade 8 shall consist of the following:
    - 1. A norm-referenced test in grades 3 through 8 in reading, language, mathematics, science, and social studies.
    - 2. A criterion-referenced test in grades 3, 5, and 8 in reading, language, and mathematics in 2003. In subsequent years, the criterion-referenced test will be administered in subjects and grade levels in accordance with policy of the State Board of Education.
    - 3. Based on achievement data from the benchmark years 3, 5, and 8, there shall be a research-based intervention initiated by the local education agency for students scoring below proficient in reading, language, and mathematics on the criterion-referenced portion of the state achievement test. The intervention shall occur during the year following the benchmark assessment data. The Department of Education shall assist systems in the identification of effective intervention programs. Evidence of compliance with this requirement shall become a component of the school improvement plan.
    - 4. An assessment of writing in grades 5 and 8.
  - (b) Each student's test data and the student's answer documents, including the test booklets for students using the large-print or Braille editions, will be maintained for a period of one year following test administration. Following this one-year period, individual student test data will then be preserved on storage media.

- (c) State mandated student testing programs shall be undertaken in accordance with procedures published by the Department of Education. Local school systems shall develop local policies regarding security of test administration, consistent with Department of Education guidelines.

*Authority:* T.C.A. § 49-1-302.

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-06)



**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-1-9  
SPECIAL EDUCATION PROGRAMS AND SERVICES**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Debra E. Owens, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**Amendment**

Paragraph (6) of Rule 0520-1-9-.05 Referral, Initial Evaluation, and Reevaluation is amended by adding the following language as subparagraph (a) so that as amended the subparagraph shall read:

- (a) Intellectually gifted students in grades 7-12 are excluded from reevaluation under 0520-1-9-.05 (6) unless requested by any member of the IEP team.

**Authority:** T.C.A. § 49-1-302.

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-07)

**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-1-9  
SPECIAL EDUCATION PROGRAMS AND SERVICES**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Debra E. Owens, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**AMENDMENT**

Part 2 of subparagraph (f) of paragraph (1) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

2. A public agency may select a surrogate parent to represent the child for educational purposes. The selected person may be an employee of a nonpublic agency that only provides non-educational care for the child provided they are able to meet the standards and perform the responsibilities as entered in 0520-1-9-.14(1)(g).

Part 6 of subparagraph (c) of paragraph (2) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

6. A statement that the parents of a child with a disability have protections under the procedural safeguards; and if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

Subparagraph (a) of paragraph (3) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended the subparagraph shall read:

- (a) The parents of a child with a disability must be afforded, in accordance with the procedures of this section, an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. The local school system shall take steps to ensure that one or both of the parents of a child eligible for special education are present or are provided the opportunity to participate in meetings, including:

Subparagraph (c) of paragraph (3) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended the subparagraph shall read:

- (c) The local school system shall take whatever action is necessary to ensure that the parent understands the proceedings at the meeting, and any group discussion relating to the educational placement of their child, including the arrangements for an interpreter for parents who are deaf or whose native language is other than English.

Subparagraph (d) of Paragraph (5) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended the subparagraph shall read:

- (d) Parents may refuse consent for evaluation or reevaluation but the local school system may continue to pursue those evaluations by using due process procedures, or the mediation procedures, if appropriate, except to the extent inconsistent with State law relating to parental consent.

Subparagraph (e) of paragraph (5) of Rule 0520-1-9-.14 Procedural Safeguards is amended by adding the following language as part 1 so that as amended the part shall read:

- 1. To meet the reasonable measures requirement above, the local school system must use procedures consistent with those of conducting an IEP meeting when a parent is not present consistent with 0520-1-9-.14(3)(d).

Paragraph (5) of Rule 0520-1-9-.14 Procedural Safeguards is amended by adding the following language as subparagraph (f) so that as amended the subparagraph shall read:

- (f) A local school system may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

Subparagraph (a) of paragraph (6) of Rule 0520-1-9-.14 Procedural Safeguards is amended by adding the following language as part 1 so that as amended the part shall read:

- 1. If a parent requests an independent educational evaluation, the local school system may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the local school system may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

Subparagraph (e) of paragraph (6) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended the subparagraph shall read:

- (e) Whenever an IEE is obtained, the criteria under which the assessment is obtained, including the location of the assessment and the qualifications of the examiner(s), must be the same as the criteria that the local school system uses when it initiates an assessment, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
  - 1. Except for the criteria described above, a local school system may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

Subparagraph (h) of paragraph (7) of Rule 0520-1-9-.14 Procedural Safeguards is amended by adding the following language as part 4 so that as amended the part shall read:

- 4. The Department shall provide policies and procedures that are used in the event that a parent refuses to provide consent under the section.

Part 3 of subparagraph (b) of paragraph (9) of Rule 0520-1-9-.14 Procedural Safeguards is amended by deleting the part in its entirety and substituting instead the following language so that as amended the part shall read:

- 3. The Department will bear the cost of the mediation process, including the costs of meetings described in paragraph (e) of this section.

Subparagraph (a) of paragraph (10) of Rule 0520-1-9-.14 Procedural Safeguards is amended by adding the following language as part 7 so that as amended the part shall read:

7. The Department shall develop a model form to assist parents in filing a request for due process that includes the information required in paragraph 6 above.

Paragraph (6) of Rule 0520-1-9-.15 Discipline Procedures is amended by adding the following language as subparagraph (f) so that as amended the subparagraph shall read:

- (f) The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under 0520-1-9-.15(4)(b).

Subparagraph (a) of paragraph (10) of Rule 0520-1-9-.15 Discipline Procedures is amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended the subparagraph shall read:

- (a) Expedited due process hearings must be conducted by due process hearing officers and written decisions mailed to parties within thirty (30) days of the local school system's receipt of the parent's request for the hearing, without exceptions or extensions.

Paragraph (2) of Rule 0520-1-9-.16 Children in Private Schools is amended by adding the following language as subparagraph (g) so that as amended the subparagraph shall read:

- (g) In implementing 0520-1-9-.16(e) the Department shall:
  1. Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;
  2. Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and
  3. Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

**Authority:** *T.C.A. § 49-1-302, 49-10-101, 49-10-701.*

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-08)

**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-2-3  
TEACHER EDUCATION AND LICENSURE**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Mary Jo Howland, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**AMENDMENT**

Rule 0520-2-3-.21 Effective Dates is amended by deleting the rule in its entirety and substituting instead the following language so that as amended the rule shall read:

**0520-2-3-.21 EFFECTIVE DATES**

Teacher candidates seeking licensure and endorsement in the following areas of endorsement shall meet the requirements of Rules 0520-2-3-.01(1) through (9) and 0520-2-3-.11 by the effective dates listed below. Revised areas of endorsement are superseded according to the dates listed below.

| Endorsement Area                             | Effective Date<br>Sept. 1 | Superseded Date<br>Aug. 31 |
|--|---------------------------|----------------------------|
| Early Childhood and Elementary Education     |                           |                            |
| Early Development and Learning PreK-K        | 2009                      |                            |
| Early Childhood Education PreK-3             | 2008                      |                            |
| Early Childhood Education PreK-4             | 2002                      | 2008                       |
| Elementary Education K-6                     | 2007                      |                            |
| Elementary Education K-8                     | 2001                      | 2007                       |
| Elementary Education 1-8                     | 1994                      | 2003                       |
| Middle Grades Education 4-8                  | 2008                      |                            |
| Middle Grades Education 5-8                  | 2001                      | 2008                       |
| Reading (PreK-4, PreK-3, K-8, K-6, 5-8, 4-8) | 2002                      |                            |
| Secondary Education: Academic                |                           |                            |
| English 7-12                                 | 2001                      |                            |
| French PreK-12 7-12                          | 2001                      |                            |
| German PreK-12, 7-12                         | 2001                      |                            |
| Latin PreK-12, 7-12                          | 2001                      |                            |
| Russian PreK-12, 7-12                        | 2001                      |                            |
| Spanish PreK-12, 7-12                        | 2001                      |                            |
| Other Foreign Language PreK-12, 7-12         | 2001                      |                            |

## Proposed Rules

|   |      |      |
|---|------|------|
| Mathematics 7-12                            | 2001 |      |
| Biology 7-12                                | 2001 |      |
| Chemistry 7-12                              | 2001 |      |
| Physics 7-12                                | 2001 |      |
| Physics 9-12                                | 2001 |      |
| Earth Science 9-12                          | 2001 |      |
| History 7-12                                | 2001 |      |
| Government 7-12                             | 2001 |      |
| Geography 7-12                              | 2001 |      |
| Economics 7-12                              | 2001 |      |
| Psychology 7-12                             | 2001 |      |
| Sociology 7-12                              | 2001 |      |
| Speech Communication 7-12                   | 1995 |      |
| <hr/>                                       |      |      |
| Secondary Education: Vocational Technical   |      |      |
| Agriculture Education 7-12                  | 2009 |      |
| Agriscience 7-12                            | 2009 |      |
| Vocational Agriculture                      | 1994 | 2009 |
| Agriscience 7-12                            | 1994 | 2009 |
| Business Education 7-12                     | 2004 |      |
| Business Technology 7-12                    | 2004 |      |
| Basic Business 7-12                         | 1994 | 2004 |
| Keyboarding 1-6 and 7-12                    | 1994 | 2004 |
| Shorthand                                   | 1994 | 2004 |
| Data Processing                             | 1994 | 2004 |
| Office Technology                           | 1994 | 2004 |
| Family and Consumer Sciences 5-12           | 2008 |      |
| Food Production & Management Services 9-12  | 2008 |      |
| Early Childhood Care and Services 9-12      | 2008 |      |
| Consumer and Homemaking 5-12                | 1994 | 2008 |
| Care/Guidance of Children 9-12              | 1994 | 2008 |
| Food Management, Production & Svcs 9-12     | 1994 | 2008 |
| Clothing Management, Production & Svcs 9-12 | 1994 | 2008 |
| Technology Engineering Education            | 2005 |      |
| Technology Education 5-12                   | 1994 | 2005 |
| Marketing 7-12                              | 1994 |      |
| <hr/>                                       |      |      |
| Visual and Performing Arts K-12             |      |      |
| Visual Arts K-12                            | 1994 |      |
| Vocal/General Music K-12                    | 1994 |      |
| Instrumental Music K-12                     | 1994 |      |
| Theatre K-12                                | 1995 |      |
| Dance K-12                                  | 2009 |      |
| <hr/>                                       |      |      |
| Special Education                           |      |      |
| SE Preschool/Early Childhood PreK-3         | 2008 |      |
| SE Preschool/Early Childhood PreK-4         | 2006 | 2008 |
| SE Preschool/Early Childhood PreK-1         | 1995 | 2006 |
| SE Modified Program K-12                    | 2006 |      |
| SE Modified Program K-12                    | 1995 | 2006 |
| SE Comprehensive Program K-12               | 2008 |      |
| SE Comprehensive Program K-12               | 1995 | 2008 |
| SE Vision PreK-12                           | 2009 |      |
| SE Vision PreK-12                           | 1995 | 2009 |
| SE Hearing PreK-12                          | 1995 |      |
| SE Speech/Language PreK-12                  | 1995 |      |
| <hr/>                                       |      |      |
| Health and Physical Education               |      |      |

|  |      |
|--|------|
| Health K-12                            | 1995 |
| Physical Education K-12                | 1995 |
| Occupational Education                 |      |
| Health Sciences Education 9-12         | 2002 |
| Trade and Industrial Education 9-12    | 2002 |
| Other                                  |      |
| English as a Second Language PreK-12   | 1999 |
| Reading Specialist PreK-12             | 2005 |
| Library Information Specialist PreK-12 | 2000 |
| Gifted Education PreK-12               | 2009 |

- (2) Candidates seeking licensure and endorsement in the following areas shall meet the requirements of rules 0520-2-3-.01 (14) through (16) by the effective dates listed below. Revised areas of endorsement are superseded according to the dates listed below.

| Endorsement Area             | Effective Date | Superseded Date |
|------------------------------|----------------|-----------------|
| School Counselor PreK-12     | Sept. 1, 1996  | Aug. 31, 1996   |
| School Social Worker PreK-12 | 1996           |                 |
| School Psychologist PreK-12  | 2001           |                 |

- (3) Candidates seeking endorsement as a beginning administrator shall meet the requirements of rules 0520-2-3-.01 (10) through (13) no later than September 1, 1994.

Candidates seeking to add endorsements to a teacher license shall meet the requirements of the initial endorsements no later than the date on which the requirements for the initial endorsements become effective.

Authority: T.C.A. § 49-1-302.

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-10)

**THE STATE BOARD OF EDUCATION - 0520**

**CHAPTER 0520-12-1**

**STANDARDS FOR CHILD CARE CENTERS AND SCHOOL-AGE CHILD CARE PROGRAMS**

Presented herein is the proposed rule of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this rule 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 rule is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> 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 this proposed rule, contact Mary Jo Howland, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed rule is as follows:

**NEW RULE**

**TABLE OF CONTENTS**

0520-12-1-.14 Civil Penalties

**0520-12-1-.14 CIVIL PENALTIES**

- (1) Pursuant to T.C.A. §49-1-1107(c)(2) the following are the minimum and maximum civil penalties that may be assessed against a child care program authorized pursuant to T.C.A. §49-1-1101, et seq.
- (2) The department shall assess the civil penalty in an order which states the reasons for the assessment of the civil penalty, the factors used to determine its assessment and the amount of the penalty. The order may not be imposed solely upon the recommendation of an agent of the department. All orders shall be reviewed by the department’s legal staff before being imposed.
- (3) Prior to the department’s assessment of a civil penalty, a program determined by an agent of the department to be in violation of these rules may be prescribed a plan of corrective action. Failure to follow a plan of corrective action as prescribed by the department may result in the assessment of a civil penalty.
- (4) Definitions.
  - (a) “Negligence” is the failure of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (b) “Intentional disregard” is the knowing forbearance of a child care program, owner, staff, auxiliary staff, director or other employees to comply with the duties or standards imposed by these rules, federal, state and local laws, or the standards of care generally required of school-administered child care programs.
  - (c) “Plan of corrective action” is a plan which provides a schedule for the completion of work to bring a program into compliance with these rules, federal, state and local laws, or the standards of care required of school-administered child care programs. The plan must include specific strategies to



be implemented in program design during the completion of the work. The plan must ensure that children will not be placed in danger due to the program area which is not in compliance and it must ensure that children will not be placed in danger by the work being done to bring the area into compliance.

(5) Civil Penalties Schedule.

(a) Major Violations.

1. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in serious injury to, or death of, a child, the department may assess a civil penalty in a range from Seven Hundred Fifty Dollars (\$750.00) up to One Thousand Dollars (\$1,000.00). The department shall determine the amount of the penalty based upon the extent of the injury to the child and whether the injury or death of the child was the result of negligence or intentional disregard of the law or regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
2. For any violation of a law or regulation that, due to negligence or intentional disregard of a law or regulation, results in an injury to a child, the department may assess a civil penalty in a range from Three Hundred Dollars (\$300.00) up to Five Hundred Dollars (\$500.00). The department shall determine the amount of the penalty based upon the extent of the injury and whether the injury to the child was the result of negligence or intentional disregard of the regulation. Consideration of the program's history of prior violations shall also be a factor in the determination of the amount of the civil penalty.
3. For violations of the following categories of regulations the department may impose a civil penalty of Two Hundred Dollars (\$200.00) for the first violation, Three Hundred Dollars (\$300.00) for the second violation, and Four Hundred Dollars (\$400.00) for the third and any subsequent such violation:
  - (i) Failure to follow any regulation related to organization, ownership and administration of a program pursuant to Section 0520-12-1-.06 of these rules;
  - (ii) Failure to follow any regulation related to health and safety pursuant to Section 0520-12-1-.10 of these rules;
  - (iii) Failure to follow any regulation related to food, nutritional needs and meal service pursuant to Section 0520-12-1-.11 of these rules;
  - (iv) Failure to follow any regulation related to maintenance of equipment pursuant to Section 0520-12-1-.08 of these rules;
  - (v) Failure to follow any regulation related to maintenance of physical facilities pursuant to Section 0520-12-1-.12 of these rules;
  - (vi) Failure to follow any regulation related to adult: child ratios pursuant to Section 0520-12-1-.07 of these rules;
  - (vii) Failure to follow any regulation related to supervision of children pursuant to Section 0520-12-1-.07 of these rules;
  - (viii) Failure to follow any regulation related to dispensing or storing medications pursuant to Section 0520-12-1-.10 of these rules;

- (ix) Failure to follow any regulation related to care of children with special needs pursuant to Section 0520-12-1-.13 of these rules;
  - (x) Failure to follow any regulation related to program staff pursuant to Section 0520-12-1-.07 of these rules;
  - (xi) Failure to properly store hazardous items such as, but not limited to, cleaning products, pesticides, hazardous chemicals, or other poisonous items pursuant to Section 0520-12-1-.10 of these rules;
  - (xii) Failure to properly remove or secure firearms within the physical facility and under the ownership or control of the program, or its staff or other persons permitted access to the children, or failure to prevent exposure of children in the program's care to firearms which are under the control of the program, or its staff, or other persons who have been permitted by the program to have access to the children pursuant to Section 0520-12-1-.10 of these rules; or
  - (xiii) Failure to follow or failure to complete a plan of corrective action.
- (b) Minor Violations.
1. A minor violation shall be any violation of a law or regulation not described as a major violation in part 1.
  2. Each minor violation may subject the program to the proscription of a corrective action plan by the department or to a civil penalty of Fifty Dollars (\$50.00).
  3. The existence of six (6) or more minor violations of any type in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the department of Two Hundred Dollars (\$200.00) in addition to the penalty for each minor violation. Three (3) or more minor violations of the same regulation in any period of twelve (12) months shall constitute a major violation and may be subject to a civil penalty imposed by the department of Two Hundred Dollars (\$200.00) in addition to the penalty for each minor violation.

Upon timely notice of a request for an appeal pursuant to T.C.A. §49-1-1107(c)(5), the department shall appoint a hearing officer to conduct the appeal proceedings before the council. The hearing officer shall have the authority of an administrative law judge of the Department of State and shall conduct the appeal process pursuant to the rules of procedure for hearing contested cases as provided in Chapter 1360-4-1 of the Rules and Regulations of the Tennessee Department of State.

**Authority:** T.C.A. § 49-1-302; T.C.A. § 49-1-1107(c)(2).

The proposed rule set out herein was properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-12)

**THE STATE BOARD OF EDUCATION - 0520****CHAPTER 0520-2-4  
LICENSURE**

Presented herein is the proposed amendment of the State Board of Education submitted pursuant to T. C. A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the State Board of Education to promulgate this amendment without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendment is published. Such petition to be effective must be filed with the State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243-1050, and in the Department of State, 8<sup>th</sup> Floor – William Snodgrass Building, 312 8<sup>th</sup> Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed amendment, contact Mary Jo Howland, State Board of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN, 37243-1050, (615) 741-2966.

The text of the proposed amendment is as follows:

**AMENDMENT**

Paragraph (5) of Rule 0520-2-4-.05 The Praxis Series: Professional Assessments for Beginning Teachers is amended by deleting the paragraph in its entirety and substituting instead the following language, so that, as amended, the paragraph shall read:

- (5) The examinations and corresponding required scores are as follows:

| Tennessee Educator Licensure Examinations |                        |   |                          |                        |
|---|------------------------|---|--------------------------|------------------------|
| Test Code                                 | Endorsement Area       | Test Title  | Minimum Qualifying Score | Effective Date Sept. 1 |
| 0521                                      | All Areas (See Note)   | Principles of Learning and Teaching, Early Childhood          | 155                      | 2005                   |
| 0522                                      |                        | Principles of Learning and Teaching, K-6 or                   | 155                      | 1998                   |
| 0523                                      |                        | Principles of Learning and Teaching, 5-9 or                   | 154                      | 1999                   |
| 0524                                      |                        | Principles of Learning and Teaching, 7-12                     | 159                      | 1998                   |
| 1010                                      | Administrator          | School Leader Licensure Assessment                            | 156                      | 2001                   |
| 0700                                      | Agricultural Education | Agriculture   | 530                      | 1998                   |
| 0133                                      | Art                    | Art: Content Knowledge  | 150                      | 1998                   |
| 0132                                      | Art                    | Choice of Art: Content, Traditions, Criticism & Aesthetics or | 140                      | 2001                   |
| 0131                                      | Art                    | Art: Art Making   | 155                      | 2001                   |
| 0235                                      | Biology                | Biology: Content Knowledge                                    | 148                      | 2002                   |
| 0233                                      | Biology                | Choice of Biology Content Essays or                           | 146                      | 1999                   |

Proposed Rules

| Test Code  | Endorsement Area             | Test Title  | Minimum Qualifying Score | Effective Date Sept. 1 |
|------------|------------------------------|---|--------------------------|------------------------|
| 0433       | Biology                      | General Science Content Essays  | 130                      | 1999                   |
| 0100       | Business/<br>Accounting      | Business Education  | 570                      | 996                    |
| 0245       | Chemistry                    | Chemistry: Content Knowledge  | 152                      | 2002                   |
| 0431       | Chemistry                    | General Science: Content Knowledge, Part 1                                  | 145                      | 2005                   |
| 0021       | Early Childhood Education    | Early Childhood Endorsement: Education of Young Children                    | 155                      | 2005                   |
| 0014       |                              | Elementary Education: Content Knowledge Reading Across the Curriculum       | 140                      | 2003                   |
| 0201       |                              | Elementary  | NM                       | 2004                   |
| 0571       | Earth Science                | Earth Science: Content Knowledge  | 146                      | 2002                   |
| 0431       | Earth Science                | General Science: Content Knowledge, Part 1                                  | 145                      | 2005                   |
| 0910       | Economics                    | Economics   | 530                      | 2005                   |
| 0011       | Elementary Education K-8     | Elementary Education: Curriculum, Instruction, and Assessment               | 159                      | 1998                   |
| 0014       | Elementary Education K-8     | Elementary Education: Content Knowledge or Middle School: Content Knowledge | 140                      | 2003                   |
| 0146       |                              |   | 150                      | 2001                   |
| 0201       |                              | Reading Across the Curriculum: Elementary                                   | NM                       | 2004                   |
| 0041       | English                      | Language, Literature, Composition: Content Knowledge                        | 157                      | 1995                   |
| 0043       | English                      | Language, Literature, Comp.: Pedagogy                                       | 145                      | 1999                   |
| 0360       | English as a Second Language | Teaching English as a Second Language                                       | 530                      | 1999                   |
| 0120       | Family & Consumer Science    | Family and Consumer Science   | 580                      | 1996                   |
| 0920       | Geography                    | Geography   | 580                      | 2005                   |
| 0930       | Government                   | Government/Political Science  | 600                      | 2005                   |
| 0550       | Health                       | Health Education  | 570                      | 1997                   |
| 0941       | History                      | World and U.S. History  | 136                      | 2005                   |
| Languages: |                              |   |                          |                        |
| 0173       | French                       | French: Content Knowledge   | 160                      | 2005                   |
| 0171       | French                       | French: Productive Language Skills  | 165                      | 2005                   |
| 0181       | German                       | German: Content Knowledge   | 149                      | 2005                   |
| 0600       | Latin                        | Latin   | 540                      | 1996                   |
| 0191       | Spanish                      | Spanish: Content Knowledge  | 152                      | 2005                   |
| 0192       | Spanish                      | Spanish: Productive Language Skills   | 154                      | 2005                   |

Proposed Rules

| Test Code | Endorsement Area                       | Test Title  | Minimum Qualifying Score | Effective Date Sept. 1 |
|-----------|--|---|--------------------------|------------------------|
| 0310      | Librarian                              | Library Media Specialist  | 600                      | 2000                   |
| 0560      | Marketing                              | Marketing Education   | 640                      | 1999                   |
| 0061      | Mathematics                            | Mathematics: Content Knowledge                                    | 136                      | 1995                   |
| 0065      | Mathematics                            | Mathematics: Pedagogy   | 125                      | 1999                   |
| 0146      | Middle Grades 5-8                      | Middle School: Content Knowledge                                  | 150                      | 2000                   |
| 0201      | Middle Grades 5-8                      | Reading Across the Curriculum: Elementary                         | NM                       | 2004                   |
| 0113      | Music                                  | Music: Content Knowledge  | 150                      | 1998                   |
| 0111      | Music                                  | Music: Concepts and Processes                                     | 145                      | 2001                   |
| 0091      | Physical Education                     | Physical Education: Content Knowledge                             | 152                      | 1995                   |
| 0092      | Physical Education                     | Physical Education: Movement Forms - Analysis & Design            | 148                      | 1999                   |
| 0265      | Physics                                | Physics: Content Knowledge  | 144                      | 2002                   |
| 0262      | Physics                                | Choice of Physics: Content Essays or                              | 135                      | 1999                   |
| 0433      | Physics                                | General Science Content Essays                                    | 130                      | 1999                   |
| 0390      | Psychology                             | Psychology  | 560                      | 1997                   |
| 0300      | Reading Specialist                     | Reading Specialist  | 510                      | 2005                   |
| 0420      | School Counselor                       | School Guidance and Counseling                                    | 580                      | 1996                   |
| 0400      | School Psychologist                    | School Psychologist   | 590                      | 1998                   |
| 0950      | Sociology                              | Sociology   | 540                      | 1996                   |
|           | Special Education:                     |   |                          |                        |
| 0353      | All Special Education Areas (See Note) | Education of Exceptional Children: Core Content Knowledge         | 144                      | 2005                   |
| 0201      | All Special Education Areas (See Note) | Reading Across the Curriculum: Elementary                         | NM                       | 2005                   |
| 0542      | Modified                               | Education of Exceptional Students: Mild to Moderate Disabilities  | 164                      | 2005                   |
| 0544      | Comprehensive                          | Education of Exceptional Students: Severe to Profound             | 155                      | 2005                   |
| 0690      | Preschool/Early Childhood              | Education of Exceptional Students: Preschool/Early Childhood      | 560                      | 2004                   |
| 0271      | Hearing                                | Special Education: Education of Deaf and Hard of Hearing Students | 163                      | 2001                   |
| 0330      | Speech/Language                        | Speech-Language Pathology   | 600                      | 2000                   |

Proposed Rules

|      |                      |  |     |      |
|------|----------------------|--|-----|------|
| 0280 | Vision               | Special Education: Teaching Students with Visual Impairments | 700 | 2001 |
| 0220 | Speech               | Speech Communications  | 570 | 1998 |
| 0050 | Technology Education | Technology Education   | 580 | 1996 |
| 0640 | Theatre              | Theatre  | 610 | 1997 |

Note: "NM" means score submission required without minimum score established.

Note: Candidates seeking licensure in early childhood education, PreK-3, or early childhood special education PreK-1 will take Principles of Learning and Teaching (PLT) K-6. Candidates seeking licensure in elementary education, K-8, may choose either PLT K-6 or PLT 5-9. Candidates seeking licensure in middle grades 5-8 will take PLT 5-9. Candidates seeking licensure in secondary education areas will take PLT 7-12. Candidates seeking licensure in K-12, or PreK-12 areas may choose PLT K-6, PLT 5-9, or PLT 7-12.

Note: Two tests, (1) The Education of Exceptional Students: Core Content Knowledge, and (2) Reading Across Curriculum: Elementary, apply to the following special education areas: modified program, comprehensive program, hearing, vision and preschool/early childhood.

Note: Candidates in elementary education, K-8, may choose either Elementary School Content Knowledge or Middle School Content Knowledge.

Note: Candidates in biology and physics may choose either the general science content essay or the subject area (biology or physics) content essays. Candidates seeking an additional endorsement in biology, chemistry, earth science, or physics will be required to take only the content knowledge exam for endorsement in the additional science area.

**Authority:** T.C.A. § 49-1-302.

The proposed amendments set out herein were properly filed in the Department of State on the 1st day of March, 2005, pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of July, 2005. (03-11)

**THE TENNESSEE DEPARTMENT OF TRANSPORTATION - 1680  
MAINTENANCE DIVISION**

**CHAPTER 1680-3-2  
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES —  
SUPPLEMENTAL RULES FOR GUIDE SIGNS ON FREEWAYS, EXPRESSWAYS  
AND CONVENTIONAL HIGHWAYS**

Presented herein are proposed rules of the Tennessee Department of Transportation, Maintenance Division, submitted pursuant T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Department of Transportation to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the Tennessee Department of Transportation, Legal Office, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, and in the Department of State, Division of Publications, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who 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 the text of these proposed rules, contact the Tennessee Department of Transportation, Legal Office, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, telephone number (615) 741-2941.

The text of the proposed rules is as follows:

**AMENDMENTS**

Rule 1680-3-2-.01, Purpose, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

- (1) The purpose of these rules is to supplement the *Manual on Uniform Traffic Control Devices* (MUTCD), which the Tennessee Department of Transportation (Department) has adopted and incorporated by reference in Chapter 1680-3-1, by establishing additional rules for guide signs on freeways, expressways and conventional highways on the state highway system within the State of Tennessee. Local governmental agencies are encouraged to employ similar standards for guide signs along freeways, expressways and conventional highways under their jurisdiction.
- (2) In addition, local governments may elect to adopt a guide sign program for streets and roads under their jurisdiction, including conventional highways on the state highway system, in accordance with the procedures and guidelines established in Chapter 1680-3-5 for the Local Government Guide Sign Program (Wayfinding Program) Including Conventional State Highways.

**Authority:** T.C.A. § 54-5-108(b).

Paragraph (2) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (2) Rule 1680-3-2-.08 identifies traffic generators that may be displayed on supplemental guide signs, and it establishes specific eligibility criteria for such signing. As a general rule, no traffic generator will be considered for a supplemental guide sign unless it meets the eligibility criteria established in Rule 1680-3-2-.08 and other conditions set forth in this Rule; provided, however, that the Commissioner may make an exception to this general rule upon finding that the signing of a traffic generator is in the interest of the motoring public and would not be contrary to public safety. Even if a traffic generator meets these minimum criteria, it may not be signed if, in the judgment of the Department, the sign would not be in the interest of public safety.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (3) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (3) Rule 1680-3-2-.09 lists examples of the types of facilities that as a general rule are not eligible for supplemental guide signs; provided, however, that the Commissioner may make an exception to this general rule upon finding that the signing of a traffic generator is in the interest of the motoring public and would not be contrary to public safety. This listing is not intended to be all-inclusive, but provides an indication of the types of facilities that normally do not warrant signing.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (7) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (7) To be eligible for supplemental guide signing, a special traffic generator should be open to the public at least eight hours a day and five days a week during six months each year. This provision does not apply to facilities where regular daily and weekly hours of operation would not be expected, such as arenas, stadiums, and auditoriums. Festivals, cultural shows, athletic contests, religious gatherings and other similar short-duration events are not eligible for signing on expressways or freeways.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (12) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (12) If, in exceptional cases, the Department determines that more than two destinations may be signed at an interchange, letter sizes may be reduced to the expressway category (as defined in the MUTCD) to allow for the signing of additional destinations on one supplemental guide sign.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (14) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (14) Within the urbanized area boundaries of cities having a population of 100,000 or more, an eligible traffic generator shall be signed only along the nearest freeway or expressway, with the signs located in advance of the interchange crossroad that provides the most direct and convenient route to the facility; provided, however, that where the annual attendance for an eligible facility exceeds 500,000 persons per year, such facility may be signed along a second freeway or expressway at an interchange within the urbanized area boundary if the facility is within the maximum eligibility distance from the interchange and, in the judgment of the Department, a second sign would facilitate the safe and efficient movement of traffic. In order to qualify for such additional signing, an official of the facility must submit a written request for such signing to the Department and verify that the facility meets the attendance requirements described above. This provision only applies to those facilities whose specific eligibility criterion is based on annual attendance.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (16) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (16) In rural areas, an eligible traffic generator may be considered for signing at an interchange along a second



freeway or expressway if the facility is within the maximum eligibility distance from the interchange and can be reached without circuitous travel.

**Authority:** *T.C.A. § 54-5-108(b).*

Paragraph (19) of Rule 1680-3-2-.04, Supplemental Guide Signs on Freeways and Expressways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (19) The use of a corporate sponsor name for an eligible traffic generator may be allowed on a supplemental guide sign, provided that the corporate sponsor is consistently identified as part of the name used to designate the facility. The use of a corporate sponsor name must be endorsed in writing by the local government where the facility is located. Where an existing sign would need to be modified or replaced to add or change a corporate sponsor, the cost for such modification or replacement shall be charged to the facility requesting the modification or replacement. The design of all such signs shall conform to the MUTCD.

**Authority:** *T.C.A. § 54-5-108(b).*

Rule 1680-3-2-.06, Named Bridge and Highway Signs on Freeways and Expressways, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

- (1) Bridges or highways that have been designated by the Tennessee General Assembly as a memorial or commemorative bridge, and that have been rebuilt or widened, will retain their legislative designation if there is no change in the route number or no significant realignment of the route.
- (2) All commemorative bridge or highway signs shall conform to the specifications as prescribed for the standard TN-26 sign in the current edition of the *Tennessee Supplement to Standard Highway Signs*, as adopted in Rule 1680-3-1-.04. All interstate bridges will be signed using a plaque as opposed to the standard green highway type sign.

**Authority:** *T.C.A. § 54-5-108(b).*

Rule 1680-3-2-.08, Table A-1. Criteria for Signing Traffic Generators on Freeways and Expressways, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

**1680-3-2-.08 TABLE A-1. CRITERIA FOR SIGNING TRAFFIC GENERATORS ON FREEWAYS AND EXPRESSWAYS.**

| <i>Type of Traffic Generator</i> | <i>Specific Eligibility Criteria</i>                               | <i>Urban Area<sup>1</sup></i> | <i>Rural Area<sup>1</sup></i> |
|----------------------------------|--|-------------------------------|-------------------------------|
| Airports                         | Minimum Number of Commercial Passengers Daily (Prime Criterion)    | 5,000/day                     | 3,000/day                     |
|                                  | Maximum Distance from Interchange (By Road)                        | Nearest interchange           | Nearest interchange           |
|                                  | Distance from Interchange For Optional Trailblazer Signs (By Road) | Up to 10 mi.                  | Up to 10 mi.                  |

Proposed Rules

|   |  |  |  |
|---|--|--|--|
| <p>Universities, Colleges, Junior Colleges/Community Colleges, State Technology Centers, State Vocational/Technical Schools, and state-operated special schools<sup>2</sup></p> | <p>Minimum Total Enrollment-Full &amp; Part-time Students (Prime Criterion)</p> <p>Must be listed as an institution of higher learning on Tennessee Higher Education Commission website, or must be a state-operated special school</p> <p>Maximum Distance from Interchange (By Road)</p> | <p>1,000<sup>2</sup></p> <p>10 miles<sup>2</sup></p> | <p>1,000<sup>2</sup></p> <p>10 miles<sup>2</sup></p> |
| <p>Military Bases</p>   | <p>Minimum Number of Employees &amp; Military Personnel (Prime Criterion)</p> <p>Maximum Distance from Interchange (By Road)</p>   | <p>5,000</p> <p>7 miles<sup>3</sup></p>              | <p>5,000</p> <p>7 miles<sup>3</sup></p>              |
| <p>Arenas/Stadiums<br/>Auditoriums<br/>Convention Halls<br/>Dams<br/>Major Recreation Sites:<br/>Fairgrounds, Zoos,<br/>Amusement Parks</p>                                     | <p>Minimum Annual Attendance (Prime Criterion)</p> <p>Maximum Distance from Interchange (By Road)</p>  | <p>300,000</p> <p>5 miles<sup>4</sup></p>            | <p>200,000</p> <p>5 miles<sup>4</sup></p>            |
| <p>State Parks</p>  | <p>Must be listed on Tenn. Dept. of Environment and Conservation, State Parks website</p> <p>Maximum Distance from Interchange (By Road)</p>   | <p>Nearest interchange</p>                           | <p>Nearest interchange</p>                           |
| <p>National Parks, Monuments, Memorials, Historical Parks, Recreation Areas, Parkways, Battlefields/Military Parks<sup>5</sup></p>  | <p>Must be listed on U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Interchange (By Road)</p>  | <p>Nearest interchange</p>                           | <p>Nearest interchange</p>                           |
| <p>State Veterans' Cemeteries and National Cemeteries<sup>5</sup></p>   | <p>Must be listed as a State Veterans' Cemetery on Tenn. Dept. of Veterans Affairs website or as a National Cemetery on the U.S. Dept. of Veterans Affairs website or the U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Interchange (By Road)</p>     | <p>Nearest interchange</p>                           | <p>Nearest Interchange</p>                           |

Proposed Rules

|  |   |   |   |
|--|---|---|---|
| <p>State and National Historic Sites</p>   | <p>Must be listed as a State-owned historic site on Tenn. Dept. of Environment and Conservation, Tennessee Historic Commission website or as a National Historic Site owned by the Federal government and listed on U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Interchange (By Road)</p>  | <p>10 miles</p>                                       | <p>10 miles</p>                                       |
| <p>State Wildlife Management Areas, Wildlife Refuges &amp; State Lakes<sup>6</sup></p> | <p>Must be open year-round</p> <p>Minimum Annual Attendance (Prime Criterion)</p> <p>Maximum Distance from Interchange (By Road)</p>  | <p>6,000</p> <p>10 miles</p>                          | <p>6,000</p> <p>10 miles</p>                          |
| <p>Cultural Interest Areas: Museums, Art Galleries, Historic Sites</p>                 | <p>Minimum Annual Attendance (Prime Criterion)</p> <p>Must be open to the general public, and the primary purpose of the facility must be as a cultural interest area (museum, art gallery or historic site)</p> <p>Historic sites must be listed on the U.S. Dept. of Interior, National Park Service, National Register of Historic Places website</p> <p>Maximum Distance from Interchange (By Road)</p> | <p>300,000<sup>7</sup></p> <p>5 miles<sup>8</sup></p> | <p>200,000<sup>7</sup></p> <p>5 miles<sup>8</sup></p> |

|   |  |                     |                     |
|---|--|---------------------|---------------------|
| Comprehensive Regional Pediatric Centers <sup>9</sup> | Administrator of facility must verify in writing that the facility is designated as a Comprehensive Regional Pediatric Center under Tenn. Dept. of Health regulations<br><br>Maximum Distance from Interchange (By Road) | 5 miles             | 5 miles             |
| Veterans Administration Medical Centers <sup>9</sup>  | Must be listed as a VA Medical Center on the U.S. Dept. of Veterans Affairs website<br><br>Maximum Distance from Interchange (By Road)   | Nearest interchange | Nearest interchange |

TABLE A-1 FOOTNOTES

<sup>1</sup> Urban Area: Population of 100,000 or greater in most recent federal decennial census.  
Rural Area: Population of less than 100,000 in most recent federal decennial census.

<sup>2</sup> Pursuant to T.C.A. § 54-5-708, the Department is given a discretionary duty to implement a directional signing program for institutions of higher learning, state technology centers and state-operated special schools throughout the State. To be considered for such signing, an institution must be identified by the Tennessee Higher Education Commission (listed on THEC webpage) as a public university, a public community college, a Tennessee Technology Center, or an independent college or university within the State of Tennessee, or the institution must be a state-operated special school, and the institution must have a minimum enrollment of 1,000 full-time and part-time students; provided, that a state-operated/public community college may be signed if it is within 19 miles (by road) of an interchange, and the minimum enrollment requirement does not apply to Tennessee Technology Centers or state-operated special schools.

<sup>3</sup> The maximum distance from the interchange (by road) may be increased by one mile for each 10% over the minimum number of employees and military personnel required.

<sup>4</sup> The maximum distance from the interchange (by road) may be increased by one mile for each additional 20,000 persons attending annually over the minimum annual attendance required.

<sup>5</sup> A National Battlefield/Military Park and National Cemetery at the same location may be signed together on one supplemental guide sign.

<sup>6</sup> Pursuant to T.C.A. § 54-5-709(b), the Tennessee Wildlife Resources Agency shall reimburse the Department of Transportation for the cost of installing such supplemental guide signs.

<sup>7</sup> The minimum annual attendance may be reduced to 60,000 for urban areas and 40,000 for rural areas if the following conditions are met:

- The local government of the municipality or county where the facility is located has endorsed the facility in writing to the Department as being culturally significant to the community; and
- The Department must determine, in its engineering judgment, that signing is essential for proper motorist guidance.

<sup>8</sup> The maximum distance from the interchange (by road) may be increased by one mile for each additional 20,000 persons attending annually over the minimum annual attendance required.

<sup>9</sup> The facility will be signed, if possible, at the nearest freeway or expressway interchange as measured in travel time to

the facility under average daytime traffic conditions. The local government having jurisdiction over the local streets or roads between the interchange and the facility shall be responsible for installing and maintaining trailblazer signs on those local streets or roads as may be necessary to provide directions to the facility. These local trailblazer signs must be in place prior to the installation of a supplemental guide sign at the interchange of a freeway or expressway.

*Authority:* T.C.A. §§ 54-5-108(b) and 54-5-704 – 54-5-709.

Rule 1680-3-2-.09 Table A-2, Traffic Generators That Do Not Warrant Signing on Freeways and Expressway, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

**1680-3-2-.09 TABLE A-2. TRAFFIC GENERATORS THAT DO NOT WARRANT SIGNING ON FREEWAYS AND EXPRESSWAYS.**

Businesses

Campgrounds  
 Industrial Parks & Plants  
 Motels, Hotels or Inns  
 Restaurants  
 Service Stations  
 Shopping Centers  
 Utilities  
 Theaters  
 TV or Radio Stations  
 Funeral Homes

Cemeteries

Local or State  
 Military<sup>1</sup>  
 Private or Public

Communities

Subdivisions  
 Suburban Communities  
 Unincorporated Communities  
 Trailer Parks

Educational

Grade or High Schools  
 Libraries  
 Private Vocational or Trade Schools  
 Research or Experimental Facilities  
 Seminaries  
 Adult Education Centers

Governmental

Civic Centers  
 County or City Facilities  
 Driver's License Centers  
 Civil Defense Facilities  
 Police Facilities  
 Motor Pools  
 Jails or Prisons  
 Post Offices  
 Research or Experimental Facilities

Local Parks  
 Vehicle Testing Centers  
 Waste Management Centers

Medical

Hospitals<sup>2</sup>  
 Research Facilities  
 Mental Facilities or Sanitariums  
 Infirmaries or Treatment Centers  
 Fraternal or Veterans Facilities  
 Nursing Homes  
 Drug Rehabilitation Facilities  
 Retirement Facilities  
 Humane Facilities  
 Veterinary or Animal Control Facilities

Military

Sites or Detachments  
 Armories  
 Arsenals  
 Recruitment Centers

Recreational/Conservation

Tourist Information Centers<sup>3</sup>  
 Country Clubs or Golf Courses  
 Fish Hatcheries or Game Farms  
 Preserves or Refuges<sup>4</sup>  
 Tree Nurseries or Arboretums  
 Camps: Civic, 4-H, Scout, Youth, YMCA/  
 YWCA, Church  
 Equestrian Centers  
 Swimming or Wave Pools  
 Sports or Game Complexes  
 Forests or Ranger Stations  
 Points of Interest

Religious

Churches

**TABLE A-2 FOOTNOTES**

<sup>1</sup> State and National Veterans' Cemeteries may be signed in accordance with Rule 1680-3-2-.08.

<sup>2</sup> Comprehensive Regional Pediatric Centers and Veterans Administration Medical Centers may be signed in accordance with Rule 1680-3-2-.08. Other hospitals may be signed with a General Service Sign in accordance with Rule 1680-3-2-.17.

<sup>3</sup> Tourist Information Centers may be signed with a General Service Sign in accordance with Rule 1680-3-2-.17.

<sup>4</sup> State wildlife management areas, wildlife refuges and state lakes established and operated by the Tennessee Wildlife Resources Agency pursuant to Title 70 of the Tennessee Code may be signed as provided in T.C.A. § 54-5-709 and Rule 1680-3-2-.08.

**Authority:** T.C.A. §§ 54-5-108(b) and 54-5-709.

Paragraph (2) of Rule 1680-3-2-.12, Supplemental Guide Signs on Conventional Highways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (2) Rule 1680-3-2-.15 identifies traffic generators that may be displayed on supplemental guide signs, and it establishes specific eligibility criteria for such signing. As a general rule, no traffic generator will be considered for a supplemental guide sign unless it meets the eligibility criteria established in Rule 1680-3-2-.15 and other conditions set forth in this Rule; provided, however, that the Commissioner may make an exception to this general rule upon finding that the signing of a traffic generator is in the interest of the motoring public and would not be contrary to public safety. Even if a traffic generator meets these minimum criteria, it may not be signed if, in the judgment of the Department, the sign would not be in the interest of public safety.

**Authority:** T.C.A. § 54-5-108(b).

Paragraph (16) of Rule 1680-3-2-.12, Supplemental Guide Signs on Conventional Highways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (16) The use of a corporate sponsor name for an eligible traffic generator may be allowed on a supplemental guide sign, provided that the corporate sponsor is consistently identified as part of the name used to designate the facility. The use of a corporate sponsor name must be endorsed in writing by the local government where the facility is located. Where an existing sign would need to be modified or replaced to add or change a corporate sponsor, the cost for such modification or replacement shall be charged to the facility requesting the modification or replacement. The design of all such signs shall conform to the MUTCD.

**Authority:** T.C.A. § 54-5-108(b).

Rule 1680-3-2-.14, Named Bridge and Highway Signs on Conventional Highways, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

- (1) Bridges or highways that have been designated by the Tennessee General Assembly as a memorial or commemorative bridge, and that have been rebuilt or widened, will retain their legislative designation if there is no change in the route number or no significant realignment of the route.
- (2) All commemorative bridge or highway signs shall conform to the specifications as prescribed for the standard TN-26 sign in the current edition of the *Tennessee Supplement to Standard Highway Signs*, as adopted in Rule 1680-3-1-.04.

*Authority: T.C.A. § 54-5-108(b).*

Paragraph (3) of Rule 1680-3-2-.16, Supplemental Guide Signs on Conventional Highways, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (3) Rule 1680-3-2-.16 lists examples of the types of facilities that as a general rule are not eligible for supplemental guide signs; provided, however, that the Commissioner may make an exception to this general rule upon finding that the signing of a traffic generator is in the interest of the motoring public and would not be contrary to public safety. This listing is not intended to be all-inclusive, but provides an indication of the types of facilities that normally do not warrant signing.

*Authority: T.C.A. § 54-5-108(b).*

Rule 1680-3-2-.15 Table B-1, Criteria for Signing Traffic Generators on Conventional Highways, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

**1680-3-2-.15 TABLE B-1. CRITERIA FOR SIGNING TRAFFIC GENERATORS ON CONVENTIONAL HIGHWAYS.**

| <i>Type of Traffic Generator</i>   | <i>Specific Eligibility Criteria</i>  | <i>Urban Area<sup>1</sup></i> | <i>Rural Area<sup>1</sup></i> |
|--|---|-------------------------------|-------------------------------|
| Airports   | Must be publicly owned with a minimum 3,000-foot paved runway<br>(Prime Criterion)<br><br>Maximum Distance from Intersection<br>(By Road)   | 5 miles                       | 5 miles                       |
| Universities, Colleges, Junior Colleges/Community Colleges, State Technology Centers, State Vocational/Technical Schools, and state-operated special schools | Must be listed as a public university, public community college, Tennessee Technology Center, or independent college or university on Tenn. Higher Educ. Com'n website, or must be a state-operated special school<br><br>Maximum Distance from Intersection<br>(By Road) | 4 miles                       | 10miles                       |
| Military Bases   | Minimum Number of Employees & Military Personnel<br>(Prime Criterion)<br><br>Maximum Distance from Intersection<br>(By Road)  | 3,000<br><br>4 miles          | 1,000<br><br>5 miles          |

Proposed Rules

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|--|---|--------------------------------|--|
| <p>Arenas/Stadiums<br/>Auditoriums<br/>Convention Halls<br/>Dams, Lakes, and Launching Ramps<sup>2</sup><br/>Major Recreation Sites:<br/>Fairgrounds, Zoos<br/>Amusement Parks</p> | <p>Minimum Annual Attendance<br/>(Prime Criterion)</p> <p>Maximum Distance from Intersection<br/>(By Road)</p>  | <p>100,000</p> <p>10 miles</p> | <p>100,000<sup>3</sup></p> <p>10 miles</p> |
| <p>State Parks</p>   | <p>Must be listed on Tenn. Dept. of Environment and Conservation, State Parks website</p> <p>Maximum Distance from Intersection<br/>(By Road)</p>   | <p>Nearest intersection</p>    | <p>Nearest intersection</p>                |
| <p>National Parks, Monuments, Memorials, Historical Parks, Recreation Areas, Parkways, Battlefields/Military Parks<sup>4</sup></p>   | <p>Must be listed on U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Intersection<br/>(By Road)</p>  | <p>Nearest intersection</p>    | <p>Nearest intersection</p>                |
| <p>State Veterans' Cemeteries and National Cemeteries<sup>4</sup></p>  | <p>Must be listed as a State Veterans' Cemetery on Tenn. Dept. of Veterans Affairs website or as a National Cemetery on the U.S. Dept. of Veterans Affairs website or the U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Intersection<br/>(By Road)</p> | <p>10 miles</p>                | <p>10 miles</p>                            |
| <p>State and National Historic Sites</p>   | <p>Must be listed as a State-owned historic site on Tenn. Dept. of Environment and Conservation, Tennessee Historic Commission website or as a National Historic Site on U.S. Dept. of Interior, National Park Service website</p> <p>Maximum Distance from Intersection<br/>(By Road)</p>  | <p>10 miles</p>                | <p>10 miles</p>                            |
| <p>State Wildlife Management Areas, Wildlife Refuges &amp; State Lakes<sup>5</sup></p>   | <p>Must be open year-round</p> <p>Minimum Annual Attendance<br/>(Prime Criterion)</p> <p>Maximum Distance from Intersection<br/>(By Road)</p>   | <p>6,000</p> <p>10 miles</p>   | <p>6,000</p> <p>10 miles</p>               |





<sup>6</sup>The facility will be signed, if possible, at the nearest state highway intersection as measured in travel time to the facility under average daytime traffic conditions. The local government having jurisdiction over the local streets or roads between the state highway intersection and the facility shall be responsible for installing and maintaining trailblazer signs on those local streets or roads as may be necessary to provide directions to the facility. These local trailblazer signs must be in place prior to the installation of a supplemental guide sign at the state highway intersection.

**Authority:** *T.C.A. §§ 54-5-108(b) and 54-5-704 — 54-5-709.*

Rule 1680-3-2-.16 Table B-2, Traffic Generators That Do Not Warrant Signing on Conventional Highways, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

**1680-3-2-.16 TABLE B-2. TRAFFIC GENERATORS THAT DO NOT WARRANT SIGNING ON CONVENTIONAL HIGHWAYS.**

Businesses

Campgrounds  
 Industrial Parks & Plants  
 Motels, Hotels or Inns  
 Restaurants  
 Service Stations  
 Shopping Centers  
 Utilities  
 Theaters  
 TV or Radio Stations  
 Funeral Homes

Cemeteries

Local or State  
 Military<sup>1</sup>  
 Private or Public

Communities

Subdivisions  
 Suburban Communities  
 Unincorporated Communities  
 Trailer Parks

Educational

Grade or High Schools  
 Libraries  
 Private Vocational or Trade Schools  
 Research or Experimental Facilities  
 Seminaries  
 Adult Education Centers

Governmental

Civic Centers  
 County or City Facilities  
 Driver's License Centers  
 Civil Defense Facilities  
 Police Facilities  
 Motor Pools  
 Jails or Prisons  
 Post Offices  
 Research or Experimental Facilities

Local Parks  
 Vehicle Testing Centers  
 Waste Management Centers

Medical

Hospitals<sup>2</sup>  
 Research Facilities  
 Mental Facilities or Sanitariums  
 Infirmaries or Treatment Centers  
 Fraternal or Veterans Facilities  
 Nursing Homes  
 Drug Rehabilitation Facilities  
 Retirement Facilities  
 Humane Facilities  
 Veterinary or Animal Control Facilities

Military

Sites or Detachments  
 Armories  
 Arsensals  
 Recruitment Centers

Recreational/Conservation

Tourist Information Centers<sup>3</sup>  
 Country Clubs or Golf Courses  
 Fish Hatcheries or Game Farms  
 Preserves or Refuges<sup>4</sup>  
 Tree Nurseries or Arboretums  
 Camps: Civic, 4-H, Scout, Youth, YMCA/  
     YWCA, Church  
 Equestrian Centers  
 Swimming or Wave Pools  
 Sports or Game Complexes  
 Forests or Ranger Stations  
 Points of Interest

Religious

Churches

**TABLE B-2 FOOTNOTES**

<sup>1</sup> State and National Veterans’ Cemeteries may be signed in accordance with Rule 1680-3-2-.15.

<sup>2</sup> Comprehensive Regional Pediatric Centers and Veterans Administration Medical Centers, Outpatient Clinics and Vet Centers may be signed in accordance with Rule 1680-3-2-.15. Other hospitals may be signed with a General Service Sign in accordance with Rule 1680-3-2-.17.

<sup>3</sup> Tourist Information Centers may be signed with a General Service Sign in accordance with Rule 1680-3-2-.17.

<sup>4</sup> State wildlife management areas, wildlife refuges and state lakes established and operated by the Tennessee Wildlife Resources Agency pursuant to Title 70 of the Tennessee Code may be signed as provided in T.C.A. § 54-5-709 and Rule 1680-3-2-.08.

Authority: T.C.A. §§ 54-5-108(b) and 54-5-709.

Chapter 1680-3-2 is further amended by adding a new Rule 1680-3-2-.20 as follows:

**1680-3-2-.20 POLICY FOR TRAIL SIGNS ON CONVENTIONAL HIGHWAYS.**

- (1) This policy establishes standards for trail signs to be installed within the rights-of-way of conventional highways on the state highway system and sets forth criteria and procedures for selecting trails to be signed.
- (2) Where specific differences occur, the special provisions of this policy shall supersede provisions of the MUTCD.
- (3) Trail signs are informational signs, plaques, or shields designed to provide road users with route guidance in following a trail of particular cultural, historical, or educational significance.
- (4) Trail signs may be installed only on conventional highways. Trail signing will not be allowed on any freeway, expressway, or the ramps of such highways.
- (5) A conventional highway is a highway characterized by at-grade intersections and a lack of control of access. A freeway, such as an interstate highway, is a divided highway with full control of access and grade-separated interchanges. An expressway is a divided highway with partial control of access and generally having grade-separated interchanges.
- (6) In establishing this policy, the Department assumes that a road user’s primary guidance for identifying trails will be in the form of printed literature and maps rather than trail signing.
- (7) The information displayed on trail signs should be clear and concise, the legend should be kept to a minimum, and the signs should be adequately spaced from other signs to avoid driver confusion. Where sign space is limited, other signs – including without limitation, regulatory signs, warning signs, major guide signs, or other existing signs – will take priority over trail signs.
- (8) To be considered for trail signing on a conventional state highway, the designated or proposed trail must link together individual sites that have a clearly common theme of historical, social, or cultural significance. Individual tourist destinations having no clearly apparent common theme or relationship shall not be eligible for trail signing.
- (9) In addition, all individual sites along the designated or proposed trail must be properly interpreted, with a sign or other appropriate means of communication, to explain the historical, social or cultural significance

of the site, and they shall be identified in readily available printed literature or brochures with maps, prior to the installation of any trail signs along conventional state highways. Each site must be accessible to the public for visitation or viewing, and it must have adequate off-road parking for visitors.

- (10) A conventional state highway may be considered for signing as a designated trail where the route itself or the route generally followed by the highway has a particular historical, social, or cultural significance, as for example, the Overmountain Victory National Historic Trail and the Trail of Tears National Historic Trail. Trails of this type should also provide convenient access to individual sites of related historic, social, or cultural significance.
- (11) All trail signs shall comply with the MUTCD and are subject to the Department's approval. Trail signs of the same type must be signed with a common trail sign. For example, all Civil War trails must be signed with the same type of trail sign throughout the State. Trail signs shall not be copyright protected.
- (12) There shall be no identification of individual sites on trail signs installed along state highways. Trail signs shall identify only the trail name and a directional arrow for guidance to individual sites having related historic, social, or cultural significance. The identification and description of individual sites should be available in printed literature relating to the trail.
- (13) To be considered for trail signing, the designated or proposed trail must be sponsored by a governmental agency or private organization having the legal authority and capability to enter into contracts and finance the installation and maintenance of trail signs.
- (14) A governmental agency or private organization requesting to sign a designated or proposed trail along a conventional state highway shall submit the following to the Department's Traffic Engineering Office:
  - (a) Adequate evidence that the agency or organization has the legal authority and capability to enter into contracts and finance the installation and maintenance of trail signs (e.g., an ordinance or resolution authorizing the expenditure of funds for trail signing or articles of incorporation that allow the expenditure of corporate funds for trail signing);
  - (b) A clearly marked map depicting the designated or proposed trail, including the beginning and ending points of the trail, and showing related individual sites along or conveniently accessible from the trail;
  - (c) A copy of the available or proposed literature or brochure that describes the common historical, social, or cultural significance of the individual sites along the trail; and
  - (d) A proposed design for the trail sign.
- (15) Designated or proposed trails related to the Civil War and their related individual sites must be sponsored or approved by the Tennessee Wars Commission, and the documentation for such sponsorship or approval shall be submitted to the Department's Traffic Engineering Office.
- (16) If the Department approves a request to sign a trail, the Department will provide the requesting agency or organization with the following:
  - (a) The number and approximate location of the trail signs to be installed by the Department on conventional state highways;
  - (b) The approved design, dimensions and other specifications for fabrication of the trail signs;
  - (c) An estimate of the costs to be incurred by the Department in the installation of the trail signs; and

- (d) A letter agreement setting forth the obligations of the requesting agency or organization as described below.
- (17) The requesting agency or organization shall execute and fulfill the terms of a letter agreement setting forth the obligations of the agency or organization, including without limitation as follows:
- (a) The agency or organization shall be responsible for all costs associated with the fabrication, installation, and maintenance of the trail signs;
  - (b) The agency or organization, at its own expense, shall have the trail signs fabricated in accordance with the approved design, dimensions and other specifications provided by the Department, and these signs shall be delivered to the Department;
  - (c) The agency or organization shall provide to the Department a cashier's check, letter of credit, or similar method of payment acceptable to the Department in the amount of the Department's estimate of the costs of installation; and
  - (d) The agency or organization shall provide replacement trail signs as necessary whenever a sign is damaged or destroyed and it shall replace all trail signs at regular intervals, not to exceed ten (10) years, in the same manner as it provides for the initial fabrication and installation of the trail signs.
- (18) Upon receipt of the foregoing, the Department will inspect the signs and, if acceptable, install them along the state highway system. If the actual costs of installation are less than the estimated amount, the Department will reimburse the difference to the requesting agency or organization. If the actual costs of installation exceed the estimated cost, the Department shall invoice the agency or organization, and the agency or organization shall pay, the full amount of the difference.
- (19) Some trails may be ended before entering areas that have an unusually high number of sites within a relatively confined geographic area and where the Department's Traffic Engineering Office has determined that signing such areas would be confusing to motorists.
- (20) Trails that enter incorporated cities whose population exceeds 40,000 persons may be discontinued within the city limits where it has been determined by the Department that such signing would be unreasonably circuitous and/or confusing to motorists. Also, trails entering cities whose populations exceed 40,000 persons may only be approved with the concurrence of the local government.
- (21) If questions arise in the interpretation of these rules, the Commissioner of Transportation, or the Commissioner's designee, will make the final administrative determination.

**Authority:** *T.C.A. § 54-5-108(b).*

The proposed rules set out herein were properly filed in the Department of State on the 11th day of March, 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 29th day of July, 2005. (03-21)

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

- 0180 - 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)
  
- 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 July 9, 2005. (01-20)

**THE TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180  
COMPLIANCE DIVISION**

**STATEMENT OF NECESSITY FOR READOPTING PUBLIC NECESSITY RULES**

Submitted herewith are proposed amendments to Chapter 0180-17 Rules Pertaining to Mortgage Lending, Loan Servicing and Loan Brokering of the rules of the Tennessee Department of Financial Institutions for promulgation under the public necessity provision of the Uniform Administrative Procedures Act. The Commissioner has adopted these rules pursuant to Tenn. Code Ann. § 4-5-209(a)(4), which authorizes an agency to adopt public necessity rules when “[t]he agency is required by an enactment of the general assembly to implement rules within a prescribed period of time which precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules.” The Commissioner further seeks to re-adopt this public necessity rule, pursuant to Tenn. Code Ann. § 4-5-209(b).

Public Chapter 747 amended the Residential Lending, Brokerage and Servicing Act, Tenn. Code Ann. §§ 45-13-101, *et seq.* (Mortgage Act). The most significant amendment was the requirement that, effective January 1, 2005, all mortgage loan originators would be regulated by the Department of Financial Institutions and that they must register by submitting a registration form and fee to the Department of Financial Institutions in affiliation with one licensed or registered mortgage lender or broker.

The Department timely filed a notice of intent to promulgate a proposed rule to implement the provisions of the amendments to the Mortgage Act. The amendments to the Act, among other things, necessitate that a completed registration form and fee be submitted to the Commissioner in order to register mortgage loan originators. The Department originally promulgated the proposed rule on June 15, 2004, which was later reviewed and approved as to its legality by the Attorney General in accordance with Tenn. Code Ann. § 4-5-211. A petition was filed for a rulemaking hearing, which was held on December 6, 2004. In the interim, the Department timely filed a public necessity rule with the Attorney General on September 16, 2004, which became effective on September 29, 2004, to ensure that the Department met the January 1, 2005 deadline mandated by the General Assembly in the Mortgage Act.

The public necessity rule, which sets forth the fee for registration, will expire March 13, 2005. The Department filed its rulemaking hearing rule with the Attorney General for review on January 7, 2005, and also submitted the objections and comments received by the Department in the course of its public hearing, along with the Department’s responses thereto. However, after the rulemaking hearing rule, objections and comments, and the Department’s responses thereto were submitted to the Attorney General for review, certain parties that would be affected by the rule articulated several constitutional challenges to the rule directly to the Attorney General. Certain of these legal challenges were entirely new and had not been raised at any time since the Department originally promulgated the proposed rule on June 15, 2004. In particular, these new legal challenges were not raised with the Department either before, during, or after the rulemaking hearing on December 6, 2004, until a legal memorandum was presented to the Commissioner at the time it was also submitted to the Attorney General. As a result of the need to consider these legal and constitutional challenges, the rulemaking hearing rule was not approved by the Attorney General to be filed with the Secretary of State until this date.

Without the adoption of the public necessity rule, the Department is faced with a period of time after expiration of the current public necessity rule (March 13, 2005), during which it will be unable to register mortgage loan originators as required by the Mortgage Act at Tenn. Code Ann. § 45-13-126(c). Additionally, the Department will be unable to collect a registration fee, thereby eliminating funding necessary for the Department to carry out all the provisions of the amendments to the Mortgage Act.

The Department’s inability to register and regulate mortgage loan originators defeats the primary purpose of the amendments to the Mortgage Act which is to combat predatory lending in Tennessee. Registration of mortgage loan originators permits the Department to hold mortgage lenders and brokers responsible for the actions of originators and to accurately inform consumers as to who is registered and appropriately affiliated with a sole broker or lender, as well as identify those that are not in good standing with the Department. The lack of a rule providing for a fee for registration

of mortgage loan originators will mean that the Department is unable to register originators after March 13, 2005, thus immediately endangering the welfare of the consuming public, until permanent rules are effective. The lack of a rule providing for a fee for registration also means that thousands of mortgage loan originators will be unable to transact business in Tennessee, as Tenn. Code Ann. § 45-13-126(a) requires a mortgage loan originator to be registered with the Department before providing any services, and Tenn. Code Ann. § 45-13-126(c) and (d) require the payment of a registration fee before the Commissioner may register anyone as a mortgage loan originator.

Consequently, without this rule providing for a fee for registration, the Department's inability to register mortgage loan originators will result in a substantial slowdown in the availability of mortgage brokering/lending services in Tennessee, and may also result in the Department having to expend additional resources to investigate and/or sanction individuals and companies for transacting business as unregistered mortgage loan originators. It will also result in the consuming public continuing to be uninformed about those with whom they are conducting residential mortgage lending, brokering and servicing activities.

In light of these circumstances, the Department could not reasonably have foreseen that entirely new constitutional challenges as to the legality of the rulemaking hearing rule would be raised directly with the Attorney General after the public hearing, and after the Department had submitted the rulemaking hearing rule to the Attorney General for review and approval. Accordingly, the Department could not have reasonably foreseen during the initial one hundred sixty-five day period that the original need for the public necessity rule would continue to the present time.

Therefore, this public necessity rule is being readopted in order to protect the public welfare, to provide the mortgage industry with the ability to comply with the registration provisions of the Mortgage Act, and to provide the Department with the necessary ability and funding to continue to implement the mortgage loan originator registration provisions set forth in the Mortgage Act. Due to the length of time necessary to complete the rulemaking process under the Uniform Administrative Procedures Act, this public necessity rule should be readopted immediately in order to permit the Department to continue the registration of mortgage loan originators required by the Mortgage Act and until rulemaking hearing rules are effective.

For a complete copy of this public necessity rule, please contact Tracey E. Boyers, Department of Financial Institutions, 4<sup>th</sup> Floor, Nashville City Center, 511 Union Street, Nashville, Tennessee, 37219, telephone 615-741-0346.

Kevin P. Lavender, Commissioner  
Tennessee Department of Financial Institutions

**PUBLIC NECESSITY RULES  
OF THE  
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS  
COMPLIANCE DIVISION**

**CHAPTER 0180-17  
RULES PERTAINING TO MORTGAGE LENDING,  
LOAN SERVICING AND LOAN BROKERING**

**AMENDMENTS**

The Table of Contents, Section 0180-17-.10 is amended by deleting the title in its entirety and substituting instead the following language so that, as amended, the title shall read:

**0180-17-.10 FEES.**

Rule 0180-17-.10 is further amended by deleting the rule in its entirety and substituting the following language so that, as amended, it shall read as follows:



## Public Necessity Rules

- (1) The commissioner hereby prescribes the following fees.
  - (a) Registration statement. Each registrant filing a registration statement pursuant to T.C.A. § 45-13-103(b)(1), shall pay to the commissioner, at the time of filing such registration statement, a non-refundable registration fee of one hundred dollars (\$100) and a non-refundable investigation fee of one hundred dollars (\$100). Each registrant shall file a renewal application and pay a renewal fee of one hundred dollars (\$100) to the commissioner on or before December 1 of each year for the following year's registration commencing on January 1. Should the registrant fail to file the renewal application and renewal fee by December 1, the registrant will have to file an application for registration together with the one hundred dollar (\$100) registration fee and the one hundred dollar (\$100) investigation fee to obtain the renewed registration.
  - (b) Fees for registration of each mortgage loan originator.
    1. Initial registration.....\$100.00
    2. Annual renewal of registration.....\$100.00
  - (c) Fee for obtaining substitute license, certificate of registration, or mortgage loan originator registration certificate.....\$25.00
- (2) Fees paid to the commissioner are non-refundable.

*Authority: Tenn. Code Ann. §§ 45-1-107(h), 45-13-105(c)(2), 45-13-117, 45-13-119; and 45-13-126.*

The public necessity rules set out herein were properly filed in the Department of State on the 8th day of March, 2005, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 20th day of August, 2005. (03-09)

**DEPARTMENT OF COMMERCE AND INSURANCE - 0780  
DIVISION OF REGULATORY BOARDS**

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to consider the promulgation of new rules pursuant to T.C.A. §§56-1-302(a)(5) and 4-3-1011. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Room 640 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on Tuesday, May 17, 2005.

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

For a copy of the entire text of this notice of rulemaking hearing, contact the Division of Regulatory Boards, attention Linda Goodwin, 500 James Robertson Parkway, 2<sup>nd</sup> Floor, Nashville, TN 37243 at (615)741-3449.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0780-5-11  
GENERAL PROVISIONS**

**NEW RULE**

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0780-5-11-.02 Regulatory Fee

**0780-5-11-.02 REGULATORY FEE**

The Division or any board, commission or agency attached thereto is authorized to charge to each licensee, permittee or registrant a state regulatory fee of five dollars (\$5.00) per year (or ten dollars (\$10.00) per biennial renewal period) or such other amount as set each year in the general appropriations act. The state regulatory fee shall be in addition to each license, permit or registration fee charged by the Division or any board, commission or agency attached thereto and shall be due at the same time as the initial license, permit or registration fee or renewal fee.

**Authority:** T.C.A. §§56-1-302(a)(5) and 4-3-1011.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on the 23<sup>rd</sup> day of March, 2005. (03-32)

**BOARD FOR LICENSING CONTRACTORS -0680**

There will be a hearing before the Board for Licensing Contractors to consider the promulgation of amendments to rules pursuant to Tenn. Code Ann. § 62-6-108(a). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in the Tennessee Ballroom at the Radisson Hotel, located at 185 Union Avenue, in Memphis, Tennessee at 10:00 a.m. (Central Time) on the 25<sup>th</sup> day of May, 2005.

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

For a copy of this Notice of Rulemaking Hearing, contact Carolyn Lazenby, Executive Director, Board for Licensing Contractors, 500 James Robertson Parkway, 1<sup>st</sup> Floor, Nashville, Tennessee 37243 at (615) 741-1202.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0680-1  
LICENSING**

**AMENDMENTS**

Paragraph (3) of Rule 0680-1-.02 Consideration of Applications is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, paragraph (3) shall read:

- (3) In order to obtain a certificate authorizing the applicant to operate as a contractor, the following persons must obtain a successful score on the examination in the appropriate classification, and may be required to appear before the Board for an interview:

*Authority: T.C.A. §§ 62-6-108(a) and 62-6-111.*

Rule 0680-1-.20 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 0680-1-.20 shall read:

**0680-1-.20 FEES.**

- (1) The application and initial license fee for a contractor's license shall be two hundred fifty dollars (\$250.00).
- (2) The examination fee shall be the fee charged by the entity administering the examination.
- (3) An applicant failing to appear for the board interview without having notified the board at least three (3) days in advance shall pay an additional fee of twenty-five dollars (\$25.00) before being rescheduled for a subsequent board interview.
- (4) The fee to transfer a license from a partnership to an individual shall be one hundred dollars (\$100.00).
- (5) The fee to transfer a license from a partnership or proprietorship to a corporation shall be one hundred dollars (\$100.00).

## Rulemaking Hearings

- (6) The renewal fee for a certificate of license shall be two hundred dollars (\$200.00).
- (7) A duplicate certificate of license may be issued upon receipt of a written request accompanied by a fee of twenty-five dollars (\$25.00).

**Authority:** *T.C.A. §§ 62-6-108(a), 62-6-111, 62-6-113 and 62-6-116.*

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of March, 2005. (03-40)

**BOARD FOR LICENSING CONTRACTORS - 0680**

There will be a hearing before the Board for Licensing Contractors to consider the promulgation of rules pursuant to Tenn. Code Ann. §§ 62-6-108. 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 Tennessee Ballroom at the Radisson Hotel, located at 185 Union Avenue, in Memphis, Tennessee at 10:00 a.m. (Central Time) on the 25<sup>th</sup> day of May, 2005.

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

For a copy of this notice of rulemaking hearing, contact Carolyn Lazenby, Executive Director of the Board for Licensing Contractors at 500 James Robertson Parkway, Davy Crockett Tower, 2<sup>nd</sup> Floor, Nashville, Tennessee 37243, telephone (615) 741-8307.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0680-4  
LICENSING**

**NEW RULES**

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| 0680-4-.02 Application and Examination | 0680-4-.05 License Renewal                         |
| 0680-4-.03 Fees                        | 0680-4-.06 Disciplinary Action and Civil Penalties |

**0680-4-.01 DEFINITIONS.**

- (1) For the purposes of rules 0680-4-.01 through 0680-4-.06, the following definitions are applicable:
  - (a) “Limited licensed plumber” means any person who performs any plumbing work that has a total cost of less than twenty-five thousand dollars (\$25,000.00) and who is required to be registered under the provisions of the Limited Licensed Plumbers’ Act of 2004.
  - (b) “Board” means the state board for licensing contractors pursuant to Tenn. Code Ann. § 62-6-104.
- (2) Limited licensed plumbers are not authorized to use the appellation “contractor” or any other designation that gives or is designed to give the impression that a limited licensed plumber is a contractor unless the limited licensed plumber also holds a valid contractor license issued by the Board.

*Authority:* Tenn. Code Ann. §§ 62-6-108, 62-6-405, 62-6-402, and 62-6-403.

**0680-4-.02 APPLICATION AND EXAMINATION.**

- (1) Applications for initial licensure as a limited licensed plumber are available upon request from the office of the Board.
- (2) Initial license applications submitted to the Board must be accompanied by a nonrefundable application fee and the initial license fee as set forth in rule 0680-4-.03.
- (3) Costs for examinations, where applicable, shall be paid directly to the entity designated by the Board to administer the exam.

*Authority:* T.C.A. §§ 62-6-108 and 62-6-405.

**0680-4-.03 FEES.** Fees charged by the Board are as follows:

- (1) Initial license fee. \$75.00
- (2) License renewal fee. \$50.00
- (3) Late renewal fee. For each month or portion thereof that renewal is late, the applicant for renewal shall pay an additional fee of 10% of the renewal fee, with the total fee not to exceed \$100.00. Renewals that are filed subsequent to the twelfth month after expiration will be treated as new applications.
- (4) Replacement license. \$ 25.00
- (5) Non-refundable application fee. \$50.00

*Authority:* T.C.A. §§ 62-6-108, 62-6-405, 62-6-406, 62-6-408, and 62-6-411.

**0680-4-.04 CHANGE OF ADDRESS.** A licensee shall notify the office of the Board in writing within thirty (30) days of any change of address.

*Authority:* T.C.A. §§ 62-6-108 and 62-6-405.

**0680-4-.05 LICENSE RENEWAL.**

- (1) Each license issued under this chapter will expire biennially on the last day of the month of its issuance.
- (2) Applications for the renewal of licenses will be made on a form provided by the Board and shall be filed with the renewal fee no later than thirty (30) days prior to license expiration. Applications will not be considered filed until the applicable fee(s) prescribed in these rules is received.
- (3) License renewals that are received fewer than thirty (30) days before the license expiration will be subject to late renewal penalties of 10% per month (or fraction thereof), with the total fee not to exceed twice the normal renewal fee, and renewal applications received subsequent to the twelfth month after expiration will be treated as new applications for licensure.

*Authority:* T.C.A. §§ 62-6-108, 62-6-405, and 62-6-411.

**0680-4-.06 DISCIPLINARY ACTION AND CIVIL PENALTIES.**

- (1) The Board for Licensing Contractors may, in a lawful proceeding with respect to any individual or entity licensed or required to be licensed by the board under Title 62, Chapter 6, Part 4, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties of up to \$1,000.00 for each separate violation of statutes, rules or orders enforceable by the Board.
- (2) Each day of continued violation may constitute a separate violation.
- (3) In assessing civil penalties, the following factors may be considered:
  - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;
  - (d) The economic benefits gained by the violator as a result of non-compliance; and
  - (e) The interest of the public.
- (4) The grounds for disciplinary action against licensees are set out in Tenn. Code Ann. § 62-6-409, and the Board may initiate proceedings against a limited licensed plumber for faulty plumbing work and for the following grounds in the best interest of the public:
  - (a) Fraud or deceit in obtaining a license, including the submission to the Board of any knowingly false or forged evidence in, or in support of, an application for a license; or
  - (b) Dishonesty, fraud or gross negligence, including knowingly or through gross negligence making misleading, deceptive or untrue representations in the performance of services.

**Authority:** *T.C.A. §§ 62-6-108, 62-6-404, 62-6-405, and 62-6-409.*

The Notice of Rulemaking Hearing set out herein was properly filed in the Department of State on the 31st day of March, 2005. (03-43)

**BOARD OF DIETITIAN / NUTRITIONIST EXAMINERS - 0470**

There will be a hearing before the Tennessee Board of Dietitian / Nutritionist Examiners to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-25-107. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 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 June, 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 0470-1-.05, Procedures for Licensure, is amended by adding the following language as new paragraph (10) and renumbering the remaining paragraphs accordingly:

- (10) 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, 63-25-107, and 63-25-110.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of March, 2005. (03-20)



**THE DEPARTMENT OF COMMERCE AND INSURANCE - 0780  
TENNESSEE EMERGENCY COMMUNICATIONS BOARD**

There will be a hearing before the Tennessee Emergency Communications Board to consider the promulgation of a rule pursuant to Tenn. Code Ann. § 7-86-205. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Room 160, Davy Crockett Tower, located at 500 James Robertson Parkway, Nashville, Tennessee on Wednesday, May 25, 2005 at 9:00 a.m. (central time).

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) may contact the Tennessee Emergency Communications Board to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review the filings), to allow time for the Tennessee Emergency Communications Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Administrative Assistant to the Executive Director of the Tennessee Emergency Communications Board at 500 James Robertson Parkway, Nashville, TN 37243, (615) 253-2164 to arrange for accommodations.

For a copy of this notice, please contact Vanessa Williams, the Assistant to the Executive Director, Tennessee Emergency Communications Board, 500 James Robertson Parkway, Nashville, TN 37243, (615) 253-2164.

**SUBSTANCE OF PROPOSED RULES  
CHAPTER 0780-6-2**

**DISPATCHER TRAINING AND COURSE OF STUDY REQUIREMENTS**

**NEW RULES**

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**0780-6-2-.01 PURPOSE.**

The purpose of this chapter is to establish minimum requirements for the training of and course of study for each emergency call taker or public safety dispatcher who receives an initial or transferred 911 call from the public in Tennessee. Existing public and private training programs are encouraged to establish new curricula and modify existing programs to incorporate these minimum requirements. Such programs are urged to develop meaningful methods for measuring the knowledge, skill and ability gained through their training programs and to offer continuing education programs. Nothing in these regulations should be construed to limit or restrict any additional training that an agency may elect to provide.

*Authority:* T.C.A. §§ 7-86-205 and 7-86-306(a)(1).

**0780-6-2-.02 DEFINITIONS.**

In this chapter, unless the context otherwise requires, the definitions in Tenn. Code Ann. § 7-86-103 shall apply.

*Authority:* T.C.A. §§ 7-86-103, 7-86-205 and 7-86-306(a)(1).

**0780-6-2-.03 MINIMUM TRAINING REQUIREMENTS.**

- (1) Each 911 or public safety dispatcher who receives an initial 911 call from the public in Tennessee shall be subject to the following minimum training requirements:
  - (a) No less than forty (40) hours of on-the-job training; and
  - (b) No less than forty (40) hours of public safety communications coursework which is:
    1. Administered or sponsored by a post-secondary educational institution, academy or agency that:
      - (i) Is capable of supporting a public safety communication student with practical experience on a communication console either through liaison with a Public Safety Communication Center or a fully functional communication console simulator; and
      - (ii) Maintains an accurate, comprehensive record system for all phases of the program which shall be available for inspection and shall include the following:
        - (I) Attendance records;
        - (II) Course outlines; and
        - (III) Lesson plans.
  - (c) Continuing education of no less than eight (8) additional hours of public safety communications coursework every two (2) years.
  - (d) All emergency call takers or public safety dispatchers subject to Tenn. Code Ann. § 7-86-205 employed after July 1, 2006 shall have six (6) months from the date of their employment to comply with the provisions of this rule.

*Authority: T.C.A. §§ 7-86-205 and 7-86-306(a)(1).*

**0780-6-2-.04 MINIMUM COURSE OF STUDY REQUIREMENTS.**

- (1) The minimum course of study requirements for each 911 or public safety dispatcher who receives an initial 911 call from the public in Tennessee shall include course work of:
  - (a) No less than four (4) hours in the roles and responsibilities of 911 or public safety dispatchers, including but not limited to the following:
    1. The mission of emergency communications providers, ethics and values;
    2. Professionalism; telecommunicators as part of a public safety team;
    3. Basic policies and procedures for telecommunicators and their organizations;
    4. Overview of communities and agencies served;
    5. Rules and regulations governing emergency communications;

6. Service area geography;
  7. Emergency communications disaster plans;
  8. Risk management;
  9. CPR;
  10. News/media relations;
  11. Responder safety.
- (b) No less than two (2) hours in legal concepts and principles, including but not limited to liability, applicable to the operation of:
1. Law enforcement agencies;
  2. Fire/rescue agencies;
  3. Emergency medical services agencies (“EMS”);
  4. Public safety communications agencies.
- (c) No less than five (5) hours in interpersonal communication skills, including but not limited to the following areas:
1. Communication techniques and information processing, such as: listening; hearing; diction; empathy; perception and intuitiveness;
  2. Customer service, including but not limited to discrimination and harassment issues;
  3. Diversity issues relating to effective emergency communications, including but not limited to race, nationality, age, speech/hearing impairment, non-English speaking callers and demographics.
- (d) No less than four (4) hours in emergency communications technology, including but not limited to the following areas:
1. Operation of telephones, including but not limited to wireline, portable, wireless (including cellular and personal communication service (“PCS”)) and text telephones for the speech/hearing impaired;
  2. Basic and Enhanced 911;
  3. Automatic Location Identification (“ALI”) and Automatic Number Identification (“ANI”);
  4. Call tracing and records retrieval procedures;
  5. Computerized mapping;
  6. Logging recorders;
  7. Computer aided dispatch (“CAD”) systems;

8. Wireless, Phase I and II;
  9. VoIP.
- (e) No less than eleven (11) hours in communication techniques and call processing, including but not limited to the following areas:
1. Public relations;
  2. Call receipt;
  3. Interviewing;
  4. Controlling the call;
  5. Managing high risk/difficult calls, including but not limited to domestic violence;
  6. Managing differing call categories, i.e., law enforcement, fire/rescue, EMS, HAZMAT or acts of terrorism;
  7. Managing differing call types and events, i.e., in progress, just occurred, late, events requiring specific instructions, notifications;
  8. The importance of obtaining proper information, i.e., location, nature, injuries, weapons, chemicals, etc.;
  9. Telematics;
  10. Homeland Security issues, including but not limited to:
    - (i) Protocols and procedures (i.e., call profiling, as in when to call in the FBI);
    - (ii) NIMS (“National Incident Management System”), if applicable; and
    - (iii) NORAD (“North American Aerospace Defense”) call procedures and protocols (dealing with emergency calls from planes and jets).
- (f) No less than twelve (12) hours in radio communications and dispatch techniques including, but not limited to the following areas:
1. Procedures and protocols;
  2. Radio discipline;
  3. Rules of the Federal Communications Commission (“FCC”) related to radios;
  4. Radio coverage;
  5. Consoles;
  6. Responder safety.
- (g) No less than two (2) hours in stress management, including but not limited to the following areas:

1. Causes;
  2. Strategies for dealing with stress;
  3. Peer support;
  4. Critical incident stress debriefing.
- (2) Course work shall include practical exercises duplicating communication center practices in which the student performs the subject matter being taught.
- (3) Course work shall include testing.

*Authority:* T.C.A. §§ 7-86-205 and 7-86-306(a)(1).

**0780-6-2-.05 MINIMUM ON-THE-JOB TRAINING REQUIREMENTS**

- (1) The minimum on-the-job training/course of study requirements for each 911 or public safety dispatcher who receives an initial 911 call from the public in Tennessee shall include a period of supervised instruction of no less than forty (40) hours related to the following:
- (a) Agency/department policies, procedures (including a written handbook containing such policies and procedures);
  - (b) Agency/department geographical area;
  - (c) Agency/department telephone system and equipment operations;
  - (d) Structure of local government and agencies being served;
  - (e) Local ordinances, requirements;
  - (f) Governmental and private resources;
  - (g) National Crime Information Center data and records, if applicable.

*Authority:* T.C.A. §§ 7-86-205 and 7-86-306(a)(1).

**0780-6-2-.06 WAIVER.**

In the event of a natural or manmade disaster of such proportions that local emergency communications cannot remain operational without the assistance of individuals who have not completed the requirements included herein, said requirements are waived.

*Authority:* T.C.A. §§ 7-86-205 and 7-86-306(a)(1).

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of March, 2005. (03-39)

**TENNESSEE DEPARTMENT OF HEALTH - 1200  
OFFICE OF POLICY, PLANNING AND ASSESSMENT  
HEALTH STATISTICS**

There will be a hearing before the Tennessee Department of Health, Office of Policy, Planning and Assessment, Health Statistics to consider the promulgation of new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204 and 68-1-108. 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 on the Ground Floor of the Cordell Hull Building, located at 425 5<sup>th</sup> Avenue North, Nashville, Tennessee at 9:00 a.m. C.S.T. on the 19<sup>th</sup> day of May, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Office of Policy, Planning and Assessment 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 Department of Health, Office of Policy, Planning and Assessment, at the following address and/or phone number:

Charlotte Jones, 6<sup>th</sup> Floor Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-5262, 741-0352.

For a copy of the entire text of this notice of rulemaking hearing contact: Marguerite Lewis, 4<sup>th</sup> Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN, 37247-5262, (615) 532-6566

**SUBSTANCE OF PROPOSED RULES**

**AMENDMENTS**

The Table of Contents is amended to reflect the catchlines of the original rules and by deleting rule 1200-7-3-.08, which as amended shall read as follows:

**TABLE OF CONTENTS**

|              |                        |              |                             |
|--------------|------------------------|--------------|-----------------------------|
| 1200-7-3-.01 | Definitions            | 1200-7-3-.05 | Processing and Verification |
| 1200-7-3-.02 | Required Data Elements | 1200-7-3-.06 | Data Availability           |
| 1200-7-3-.03 | Submission Time Line   | 1200-7-3-.07 | Confidential Information    |
| 1200-7-3-.04 | Penalty Assessment     |              |                             |

Rule 1200-7-3-.01 Definitions, is amended by deleting the language of paragraphs (1) through (12) and substituting instead the following:

- (1) "Aggregate Data" is defined as a set of multiple data records that are tabulated, combined, or otherwise summarized for the purpose of describing characteristics of a group of patient discharges.
- (2) "Department" is defined as the Department of Health.
- (3) "Discharge" shall be defined as the formal release of a patient from a hospital in either an inpatient or outpatient situation.
- (4) "Error" is defined as data that are incomplete or inconsistent with the specifications in T.C.A. 68-1-108, these rules, and the Hospital Discharge Data System Procedure Manual.

## Rulemaking Hearings

- (5) “Final Joint Annual Report” is defined as the most recent Joint Annual Report filed by a hospital where the data contained therein has been edited, queried and updated by the Department.
- (6) “Hospital” shall be defined as in T.C.A. 68-11-201(21)
- (7) “Inpatient” shall be defined as a person receiving reception and care in a hospital for a continuous period of twenty-four (24) hours or more for the purpose of giving advice, diagnosis, nursing service, or treatment bearing on the physical health of the person, and a person receiving maternity care involving labor and delivery for any period of time.
- (8) “Outpatient” shall be defined as a person receiving reception and care in a hospital for a continuous period less than twenty-four (24) hours for the purpose of giving advice, diagnosis, nursing service, or treatment bearing on the physical health of the person, excluding persons receiving maternity care involving labor and delivery. Reportable outpatient records are defined in the hospital discharge data system manual. Reportable records are defined in terms of the type of service provided and the type of bill on Form UB-92.
- (9) “Patient Identifiers” shall be defined to include the following data elements: Patient Control Number, Medical/Health Record Number, Certificate Number/ID Number/SSN, and Patient’s Social Security Number.
- (10) “Processed Data” is defined as data that have been reviewed by the Department for the purpose of detecting errors, inconsistencies, and/or incomplete elements in the data set
- (11) “Public” shall be defined as anyone other than the THA and agencies of the government of the State of Tennessee.
- (12) “Record Level Data” is defined as a set of data that is specific to a single patient discharge.
- (13) “THA” shall be defined as the administrative offices and staff of the Tennessee Hospital Association.
- (14) “UB-92” is defined to be CMS Form 1450, the Uniform Hospital Billing Form, or a successor form as established by the National Committee and the State Uniform Billing Implementation Committee.
- (15) “Verified Data” is defined as data that have been processed by the Department; the health facilities have had the opportunity to suggest corrections, additions, and/or deletions; and all appropriate revisions have been made to the data by the Department.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204 68-1-108 and 68-11-201.

Rule 1200-7-3-.02 Required Data Elements, is amended by deleting paragraphs (1), (4), (5), (6) and (7) and substituting the following:

- (1) The Department will prepare the Hospital Discharge Data System (HDDS) Procedure Manual that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department shall make future changes in the Procedure Manual when the Commissioner deems changes to be necessary. Reporting entities will be notified by the Department of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements are subject to the penalties as prescribed by T.C.A. §68-1-108.
- (4) Reporting of all emergency room discharges will be required with emergency room discharges defined as those discharges having a revenue code of 0450 through 0459 inclusive in any revenue code field.

- (5) Required reporting of outpatient discharges are as follows.
  - (a) All outpatient discharges which have a revenue code of 0760, 0762, or 0769 in any revenue code field.
  - (b) All outpatient discharges with an ICD-9-CM procedure code in the range of 00.01 through 86.99 inclusive in any procedure code field.
  - (c) All outpatient discharges with a revenue code of 079X, 0404, 061X, 0333, or 035X in any revenue field also having a bill type of 12X, 13X, 14X, 7XX, 83X, or 85X, where “X” represents any numeric digit.
- (6) All data elements reported by the hospital should be the actual values used by the hospital. None should be encrypted or otherwise altered.
- (7) All hospitals which are required to report data by T.C.A. §68-1-108 shall designate one staff member to be responsible for reporting the claims data. The Department shall be notified by the hospital, on a form supplied by the Department, with the name, title, work address, and work telephone number of the designated staff member.

**Authority:** T.C.A. §§4-5-202, 4-5-204 and 68-1-108.

Rule 1200-7-3-.03 Submission Time Line, is amended by deleting paragraphs (1) through (4) and substituting instead the following new paragraphs (1) and (2):

- (1) All required data must be received by the Department each quarter according to the following schedule:

| Quarter | Time Span               | Submission Due Date |
|---------|-------------------------|---------------------|
| Q1      | January 1 – March 31    | May 30              |
| Q2      | April 1 – June 30       | August 29           |
| Q3      | July 1 – September 30   | November 29         |
| Q4      | October 1 – December 31 | March 1             |

- (2) All data submissions must be in the form of computer media (e.g., magnetic tape, diskettes).

**Authority:** T.C.A. §§4-5-202, 4-5-204 and 68-1-108.

Rule 1200-7-3-.04 Penalty Assessment, is amended by deleting paragraphs (3) through (13) and substituting instead the following new paragraphs (3) through (12):

- (3) For hospitals not submitting any discharge reports by the submission deadline, the number of inpatient hospital discharge reports delinquent for a particular facility per quarter will be estimated by dividing the number of total inpatient discharges/or admissions reported in Schedule G of the most current, final Joint Annual Report of Hospitals (JAR-H) on file with the Department for that facility by four (4).



## Rulemaking Hearings

The number of delinquent outpatient claims reports for a quarter will likewise be estimated using data from the facility's most recent, final Joint Annual Report. This estimate will be obtained by dividing by four (4) the sum of outpatient data from Schedule D for percutaneous lithotripsy procedures, adult and pediatric cardiac catheterizations, adult and pediatric percutaneous transluminal coronary angioplasties, outpatient surgery procedures from dedicated O. R.'s and from procedure rooms, eye, bone, bone marrow, connective, cardiovascular, stem cell, and other transplants, and from Schedule I, total emergency room visits. The sum of the inpatient estimate and the outpatient estimate will be used to calculate the penalty assessed. Any positive or negative adjustments to the final estimate, up to a maximum of ten (10) percent will be made once the actual claims reports are received by the Department.

- (4) Hospitals not submitting any discharge reports by the submission deadline will begin accruing penalties starting the day immediately following the submission deadline and ending the day when the actual discharge reports are received by the Department or the maximum penalty is reached (maximum=\$10/discharge record).
- (5) For all 2006 discharges, the allowable error rate will be no more than 3%. For all discharges in 2007 and subsequent years, the allowable error rate will be no more than 2%. Records that fall within the acceptable rate will not be subject to any penalties. Hospitals that exceed the acceptable error rate will be penalized based on total errors.
- (6) Hospitals which do not submit corrected discharge records within the additional fifteen (15) days allocated for error correction will accrue delinquent penalties starting the sixteenth day after error notification and ending the day when the actual corrected discharge reports are received by the Department or the maximum penalty is reached (maximum=\$10/discharge record). The Commissioner has the authority to delay any penalty for not correcting any particular data element if the failure to correct is due to force majeure or other events of extraordinary circumstances clearly beyond the control of the hospital.
- (7) Upon receipt of the penalty assessment, the hospital has the right to an informal conference with the Commissioner. A written request for an informal conference must be received by the Commissioner within thirty (30) days of the assessment.
- (8) A notice of an approximate daily assessment of the civil penalty will be sent to the delinquent hospital(s). The assessment will estimate the approximate penalty per day based on the estimated number of discharge reports. The assessment will state that penalties will accrue until the delinquent discharge reports are received or the maximum penalty is reached. Delinquent penalties will be collected starting thirty (30) days from the date of notice and continuing every thirty days until the maximum penalty is reached or the discharge reports are received.
- (9) Penalties continue to accumulate for hospitals requesting an informal conference with the Commissioner.
- (10) The Commissioner can grant a waiver from penalties to a hospital in cases of force majeure or other events of extraordinary circumstances clearly beyond the control of the hospital. The hospital must make a written request for the waiver and the informal conference within the first thirty (30) days following notification of the assessment. The proceedings before the Commissioner involving penalty waivers are not subject to the Uniform Administrative Procedures Act.
- (11) After the conference with the Commissioner or the time frame for requesting a conference has expired, the Commissioner can collect the penalties unless the hospital appeals the Commissioner's decision. Penalties may be off set by funds owed to the hospital by the Department of Health and/or the Department of Finance and Administration. However, if the hospital wishes to appeal the decision of the Commissioner, a request in writing for a hearing before an Administrative Law Judge must be sent to the Commissioner within ten (10) business days of the Commissioner's written determination. Issues involving collection of penalties directly from hospitals resolved by an Administrative Law Judge will be in accordance with the Uniform

Administrative Procedures Act.

- (12) At the date of collection, penalties for the hospitals that have not submitted any discharge data will be collected based on the estimated number of discharges per day delinquent from the submission deadline to the collection date. Penalties for hospitals that have submitted data will be collected based on the actual number of discharge records that are incomplete or inaccurate for the particular quarter and the actual days delinquent.

**Authority:** *T.C.A. §§4-5-202, 4-5-204 and 68-1-108.*

Rule 1200-7-3-.05 Processing and Verification, is amended by deleting paragraphs (1), (4) and (5) and substituting instead the following new paragraphs (1) and (4):

- (1) If errors, inconsistencies, or incomplete elements are identified by the Department the errors will be reported to the hospital in writing. Upon receiving written notification of errors, the hospital facility shall investigate the problem and shall supply correct information within fifteen (15) days from notification.
- (4) Pursuant to (1) through (3) above, and all appropriate revisions have been made to the data by the Department, the data is considered verified.

**Authority:** *T.C.A. §§4-5-202, 4-5-204 and 68-1-108.*

1200-7-3-.06 Data Availability, is amended by deleting paragraphs (1) through (8) and substituting instead the following new paragraphs (1) through (5):

- (1) Within thirty (30) days after all hospitals' claims data has been accumulated into the Department's master database, and has been processed and verified, the Department will send THA a copy of the entire database.
- (2) The Commissioner has the authority to delay release of any particular data element(s) if it is determined that the quality or completeness of the information is not acceptable.
- (3) The Department may create reports for public release using any available processed and verified aggregate data. It may also provide custom reports, as requested by the public, using any available processed and verified aggregate data. Facility specific aggregate data reports will not be released to the public until at least four (4) consecutive quarters of data have been processed and verified.
- (4) A contractual agent of the Department or of the THA may receive reports of any record necessary, together with any needed patient identifiers, to carry out their contractual duties. This includes any organization contracted with to provide editing, quality control, database management services, or research for the Department or the THA. Any such contractual agent must agree in writing to establish and maintain appropriate controls to protect the confidentiality of the data and must agree to return or destroy any data or records at the termination of the contract.
- (5) Record level data files will be made available for public release and purchase under the following conditions. The fee for a quarter of inpatient data will be \$300. The fee for a quarter of outpatient data will be \$300. The fee for a subset of a quarter of data, inpatient or outpatient, will be \$300. The Department maintains a proprietary interest in all record level data files it sells or distributes and such files are made available solely for use by the purchaser and may not be given or sold to another entity. No record level data files will be made available for public release and purchase until eighteen months following the close of the data year.

**Authority:** *T.C.A. §§4-5-202, 4-5-204 and 68-1-108.*

## Rulemaking Hearings

Rule 1200-7-3-.07 Confidential Information, is amended by deleting paragraphs (4) and (5) and substituting instead the following new paragraphs (4) through (6):

- (4) To protect patient confidentiality both data files and reports released to the public must meet the following criteria:
  - (a) Patient Address City must be deleted.
  - (b) The month and day of all dates must be deleted.
  - (c) All zip code areas having a population under 20,000 must have no more than the first three digits shown. Zip code areas having a population of 20,000 or more must have no more than the first five digits shown.
  - (d) For patients over 89 years of age the Year of Birth must be deleted and the actual patient age may not be shown.
  - (e) Information that reasonably could be expected to reveal the identity of a patient including those items contained in 45 C.F.R. § 514 (a) and (b) shall be deleted.
- (5) Any agency of the State of Tennessee receiving confidential hospital claims data or reports containing such confidential information, shall agree in writing to follow all confidentiality restrictions of the Department concerning use of this data.
- (6) The Commissioner may use or authorize use of this data, including the patient identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law.

**Authority:** *T.C.A. §§4-5-202, 4-5-204 and 68-1-108.*

### REPEALS

Rule 1200-7-3-108 is repealed.

**Authority:** *T.C.A. §§4-5-202, 4-5-204 and 68-1-108.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of March, 2005.  
(03-14)

**TENNESSEE HOME IMPROVEMENT COMMISSION - 0765**

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of amendments to rules pursuant to Tenn. Code Ann. § 62-37-115(4). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Room 640 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on Thursday, June 2, 2005.

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

For a copy of this Notice of Rulemaking Hearing, contact Carolyn Lazenby, Executive Director, Tennessee Home Improvement Commission, 500 James Robertson Parkway, 1<sup>st</sup> Floor, Nashville, Tennessee 37243 at (615) 741-1202.

**SUBSTANCE OF PROPOSED RULES**

**CHAPTER 0765-1  
GENERAL REGULATIONS**

**AMENDMENT**

Rule 0765-1-.01 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 0765-1-.01 shall read:

**0765-1-.01 FEES.**

- (1) Initial application and license fee.....\$150.00 per business location
- (2) Renewal fee.....\$125.00 per business location
- (3) Duplicate license fee for one lost, destroyed or mutilated.....\$10.00

**Authority:** *T.C.A. §§62-37-106 and 62-37-115(4).*

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of March, 2005. (03-41)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to T.C.A. §§ 4-5-201 et seq. and 36-5-501. 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: Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 16, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 17, 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 18, 2005.

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

For a copy of this notice of rulemaking hearing, contact: 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 DIVISION  
CHAPTER 1240-2-2  
FORMS FOR WITHHOLDING OF INCOME FOR CHILD SUPPORT**

**REPEAL**

Rule 1240-2-2-.05, Attachment to Order to Withhold for Tennessee Employers/Payers of Income, is repealed.

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100.

**AMENDMENTS**

Rule 1240-2-2-.01, Purpose and Scope of Rules, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) These forms may be generated by computer by the Tennessee Child Support Enforcement System (TCSES), as well as individually by the Department, its contractors or by the Clerks of Tennessee courts by word processing or other suitable means, and minor changes in formatting of the information shall not affect the validity of these forms for the purposes intended. Provided, however, that the form entitled Order/Notice to Withhold Income for Child Support is a form required by the United States Department of Health and Human Services and shall remain substantially as it is drafted.

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting subparagraphs (b), (c) and (d) of paragraph (1) in their entireties and by substituting instead the following:

- (b) It shall be used by the Clerk of the Court and by the Department of Human Services or its contractor for the purpose of directing an employer or other payer of income who or which has income payable to an obligor of support to withhold income from that obligor to comply with an initial order of the court.
- (c) It shall be used by the Department or its contractors to indicate to the employer/payer of income that the Order/Notice to Withhold Income for Child Support (Order for Income Assignment) has been modified so that the newly ordered amounts will be substituted in place of the previously ordered amounts or to recover any fees or costs as allowed by law;
- (d) It shall be used by the court clerk or the Department to denote the termination of an income assignment as indicated on the form;
- (e) It shall be used only by the Department to notify the obligor of enrollment, pursuant to T.C.A. §36-5-101(f), of the obligor’s children, in employer-provided family health care coverage following a change of employers by the obligor; and
- (f) It shall be used to notify the entity withholding the income of the obligor of any other changes to the processing of the payments withheld including, but not limited to, a change in payment location, frequency of payment, or other processing data.

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services’ Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (7) in its entirety and by substituting instead the following language so that, as amended, paragraph (7) shall read as follows:

(7) Form:

1a ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT  
NOTICE OF AN ORDER TO WITHHOLD INCOME FOR CHILD SUPPORT

|                                       |                                 |                 |   |       |
|---------------------------------------|---------------------------------|-----------------|---|-------|
| Original                              | Amended                         | Termination #1b | Date: #1c                                   | _____ |
| State/Tribe/Territory                 | _____                           |                 | #1d   | _____ |
| City/Co./Dist./Reservation            | _____                           |                 | #1e   | _____ |
| Non-governmental entity or Individual | _____                           | #1f             |   | _____ |
| Case Number                           | _____                           | #1g             |   | _____ |
|                                       | #2a                             |                 |   | _____ |
|                                       | Employer’s/Withholder’s Name    |                 | RE: #3a                                     | _____ |
|                                       | #2b                             |                 | Employee’s/Obligor’s Name (Last, First, MI) | _____ |
|                                       | Employer’s/Withholder’s Address |                 | #3b   | _____ |
|                                       | #2c                             |                 | Employee’s/Obligor’s Social Security Number | _____ |
|                                       | _____                           |                 | #3c   | _____ |
|                                       | _____                           |                 | Employee’s/Obligor’s Case Identifier        | _____ |

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#2d \_\_\_\_\_ #3d \_\_\_\_\_  
Employer's/Withholder's Federal EIN Number (if known) Obligee's Name (Last, First, MI)

ORDER INFORMATION: This document is based on the support or withholding order from \_\_\_\_\_ [State/Tribe] #4

You are required by law to deduct these amounts from the employee's/obligor's income until further notice.

\$ # 5a Per # 5b current child support #13  
\$ # 6a Per # 6b past-due child support - Arrears greater than 12 weeks? yes no  
\$ # 7a Per # 7b current cash medical support  
\$ # 8a Per # 8b past-due cash medical support  
\$ # 9a Per # 9b spousal support  
\$ #10a Per #10b past-due spousal support  
\$ #11a Per #11b other (specify) #11c  
for a total of \$ #12a per #12b to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ # 14a per weekly pay period. \$ # 14c per semimonthly pay period (twice a month).  
\$ # 14b per biweekly pay period (every two weeks). \$ # 14d per monthly pay period.

REMITTANCE INFORMATION: When remitting payment, provide the pay date/date of withholding and the case identifier. If the employee's/obligor's principal place of employment is #15, begin withholding no later than the first pay period occurring #16 days after the date of #17. Send payment within #18 working days of the pay date/date of withholding. The total withheld amount, including your fee, may not exceed #19 % of the employee's/obligor's aggregate disposable weekly earnings.

If the employee's/obligor's principal place of employment is not #20, for limitations on withholding, applicable time requirements, and any allowable employer fees, follow the laws and procedures of the employee's/obligor's principal place of employment (see #3 and #9, ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS).

Make check payable to: #21 (Payee and Case identifier) Send check to: #22

If remitting payment by EFT/EDI, call #23a before first submission. Use this FIPS code: #23b

Bank routing number: #23c Bank account number: #23d

If this is an Order/Notice to Withhold: If this is a Notice of an Order to Withhold:

24a Print Name 25a Print Name

24b Title of Issuing Official Mandatory 25b Title (if appropriate)

24c Signature and Date (if required by state or tribal law) 25c Signature and Date

24d IV-D Agency Court 25d Attorney Individual Private Entity

24e Attorney with authority under state law to issue order/notice.

NOTE: Non-IV-D Attorneys, individuals, and non-governmental entities must submit a Notice of an Order to Withhold and include a copy of the income withholding order unless, under a state's law, an attorney in that state may issue an income withholding order. In that case, the attorney may submit an Order/Notice to Withhold and include a copy of the state law authorizing the attorney to issue an income withholding order/notice.

IMPORTANT: The person completing this form is advised that the information on this form may be shared with the obligor.

OMB 0970-0154

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

#26 If checked, you are required to provide a copy of this form to your employee/obligor. If your employee works in a state that is different from the state that issued this order, a copy must be provided to your employee/obligor even if the box is not checked.

1. **Priority:** Withholding under this Order or Notice has priority over any other legal process under state law (or tribal law, if applicable) against the same income. If there are federal tax levies in effect, please notify the contact person listed below. (See 10 below.)
2. **Combining Payments:** You may combine withheld amounts from more than one employee's/obligor's income in a single payment to each agency/party requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.
3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the amount was withheld from the employee's wages. You must comply with the law of the state of employee's/obligor's principal place of employment with respect to the time periods within which you must implement the withholding and forward the support payments.
4. **Employee/Obligor with Multiple Support Withholdings:** If there is more than one Order or Notice against this employee/obligor and you are unable to honor all support Orders or Notices due to federal, state, or tribal withholding limits, you must follow the state or tribal law/procedure of the employee's/obligor's principal place of employment. You must honor all Orders or Notices to the greatest extent possible. (See 9 below.)
5. **Termination Notification:** You must promptly notify the Child Support Enforcement (IV-D) Agency and/or the contact person listed below when the employee/obligor no longer works for you. Please provide the information requested and return a complete copy of this Order or Notice to the Child Support Enforcement (IV-D) Agency and/or the contact person listed below. (See 10 below.)  
 THE EMPLOYEE/OBLIGOR NO LONGER WORKS FOR: \_\_\_\_\_  
 EMPLOYEE'S/OBLIGOR'S NAME: \_\_\_\_\_ CASE IDENTIFIER: \_\_\_\_\_  
 \_\_\_\_\_  
 DATE OF SEPARATION FROM EMPLOYMENT: \_\_\_\_\_  
 LAST KNOWN HOME ADDRESS: \_\_\_\_\_  
 NEW EMPLOYER/ADDRESS: \_\_\_\_\_
6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the Child Support Enforcement (IV-D) Agency.
7. **Liability:** If you have any doubts about the validity of the Order or Notice, contact the agency or person listed below under 10. If you fail to withhold income as the Order or Notice directs, you are liable for both the accumulated amount you should have withheld from the employee's/obligor's income and any other penalties set by state or tribal law/procedure.

#27 \_\_\_\_\_  
 \_\_\_\_\_

8. **Anti-discrimination:** You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor



because of a child support withholding.

#28 \_\_\_\_\_  
 \_\_\_\_\_

9. Withholding Limits: For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the state of the employee’s/obligor’s principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears greater than 12 weeks. For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.

Child(ren)’s Names and Additional Information: \_\_\_\_\_ #29 \_\_\_\_\_  
 \_\_\_\_\_

Tennessee Employers/Payers of Income should refer to the Department’s Rule 1240-2-2-.05, available on the Internet at <http://www.state.tn.us/sos/rules/1240/1240-02/1240-02-02.pdf>, for state specific information about the priority and proration of payments if multiple Orders/Notices are received for one employee.

10. If you or your employee/obligor have any questions, contact \_\_\_\_\_ #30a by telephone at \_\_\_\_\_ #30b \_\_\_\_\_ by Fax at \_\_\_\_\_ #30c or by internet at \_\_\_\_\_ #30d \_\_\_\_\_.

Instructions to complete the Order/Notice to Withhold Income for Child Support  
 or Notice of an Order to Withhold Income for Child Support

The Order/Notice to Withhold Income for Child Support (Order/Notice) or Notice of an Order to Withhold Income for Child Support (Notice) is a standardized form used for income withholding in tribal, intrastate, interstate, and intergovernmental cases. Please note that information provided on this form may be shared with the obligor. When completing the form, please include the following information.

The following information 1a – 1g refers to the government agency, non-government entity, or individual completing and sending this form to the employer.

- 1a. Check whether this is an Order/Notice to Withhold Income for Child Support or a Notice of an Order to Withhold Income for Child Support. Attorneys, individuals, and non-governmental entities must submit a Notice of an Order to Withhold and include a copy of the income withholding order unless, under a state’s law, an attorney in that state may issue an income withholding order/notice. In that case, the attorney may submit an Order/Notice to Withhold and include a copy of the state law authorizing the attorney to issue an income withholding order/notice.
- 1b. Check the appropriate status of the Order or Notice.
- 1c. Date this form is completed and/or signed.
- 1d. Name of the state, tribe or territory sending this form. This must be a governmental entity.
- 1e. Name of the county, city, district, or reservation sending this Order or Notice, if appropriate. This must be a governmental entity.

## Rulemaking Hearings

1f. Check and indicate the non-governmental entity or individual sending this Order or Notice. Complete this item only if a non-governmental entity or individual is submitting this Order or Notice.

1g. Identifying case number used by the entity or individual sending this Order or Notice. In a IV-D case, this must be the IV-D case number.

The following information in 2 and 3 refers to the obligor, obligor's employer, and case identification.

2a. Employer's/Withholder's name.

2b-c. Employer's/Withholder's mailing address, city, and state. (This may differ from the Employee's/Obligor's work site.)

2d. Employer's/Withholder's nine-digit federal employer identification number (if available). Include three-digit location code.

3a. Employee's/Obligor's last name, first name, and middle initial.

3b. Employee's/Obligor's Social Security Number (if known).

3c. The case identifier used by the order issuing state or tribe for recording payments. (Should be the same as #21.) In a IV-D case, this must be the IV-D case number.

3d. Custodial Parent's last name, first name, and middle initial (if known).

ORDER INFORMATION - The following information in 4 -14e refers to the dollar amounts taken directly from the child support order.

4. Name of the state or tribe that issued the support order.

5a-b. Dollar amount to be withheld for payment of current child support, time period that corresponds to the amount in #6a (such as month, week, etc.).

6a-b. Dollar amount to be withheld for payment of past-due child support, time period that corresponds to the amount in #6a (such as month, week, etc.).

7a-b. Dollar amount to be withheld for payment of current cash medical support, as appropriate, based on the underlying order, time period that corresponds to the amount in #7a (such as month, week, etc.).

8a-b. Dollar amount to be withheld for payment of past-due cash medical support, if appropriate, based on the underlying order and the time period that corresponds to the amount in #8a (such as month, week, etc.).

9a-b. Dollar amount to be withheld for payment of spousal support (alimony), if appropriate, based on the underlying order, time period that corresponds to the amount in #9a (such as month, week, etc.).

10a-b. Dollar amount to be withheld for payment of past-due spousal support (alimony), if appropriate, based on the underlying order, time period that corresponds to the amount in #10a (such as month, week, etc.).

11a-c. Dollar amount to be withheld for payment of miscellaneous obligations, if appropriate, based on the underlying order, time period that corresponds to the amount in #11a (e.g., month, week, etc.), and description of the miscellaneous obligation.

12a. Total of #5a, #6a, #7a, #8a, #9a, #10a, and # 11a.

- 12b. Time period that corresponds to the amount in #12a (e.g., month).
- 13. Check this box if arrears greater than 12 weeks.
- 14a. Amount an employer should withhold if the employee is paid weekly.
- 14b. Amount an employer should withhold if the employee is paid every two weeks.
- 14c. Amount an employer should withhold if the employee is paid twice a month.
- 14d. Amount an employer should withhold if the employee is paid once a month.

REMITTANCE INFORMATION

- 15. The state, tribe, or territory from which this Order/Notice or Notice of an Order is sent.
- 16. Number of days in which the withholding must begin pursuant to the issuing state's or tribe's laws/procedures.
- 17. The effective date of the income withholding.
- 18. Number of working days within which an employer or other withholder of income must remit amounts withheld pursuant to the issuing state's law.
- 19. The percentage of income that may be withheld from the employee's/obligor's income. For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the state of the employee's/obligor's principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes.  
For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.
- 20. The state, tribe, or territory from which the Order or Notice is sent.
- 21. Name of the State Disbursement Unit, individual, tribunal/court, or tribal child support enforcement agency specified in the underlying income withholding order to which payments are required to be sent. This form may not indicate a location other than that specified by an entity authorized under state or tribal law to issue an income withholding order. Please include the case identifier used to record payment (should be the same as 3c). In a IV-D case, this must be the IV-D case number.
- 22. Address of the State Disbursement Unit, tribunal/court, tribal child support enforcement agency, or individual identified in #21. This information is shared with the obligor. Be sure to safeguard confidential addresses.

Complete only for EFT/EDI transmission.

- 23a. Telephone number of contact to provide EFT/EDI instructions.
- 23b. Federal Information Process Standard (FIPS) code for transmitting payments through EFT/EDI. The FIPS code is five characters that identify the state, county or tribe. It is seven characters when it identifies the state, county, and a location within the county. It is necessary for centralized collections.
- 23c. Receiving agency's bank routing number.

23d. Receiving agency's bank account number.

IV-D agencies, courts, and attorneys (with authority to issue an income withholding order/notice) sending an Order/Notice to Withhold Income for Child Support must complete 24a-e.

24a. Print name of the government official authorizing this Order or Notice to Withhold.

24b. Print title of the government official authorizing this Order or Notice to Withhold.

24c. Signature of Government Official authorizing this Order/Notice to Withhold and date of signature. This line may be optional only if the Withholding Order/Notice includes the name and title of a government official (line 24a, 24b) and a signature of the official (line 24c) is not required by state or tribal law. Provide a signature if required by state or tribal law.

24d. Check the appropriate box to indicate whether a child support enforcement agency (IV-D) or court is authorizing this Order or Notice for withholding.

24e. Check the box if you are an attorney with authority to issue an order or notice under state law.

Attorneys, individuals, and private entities sending a Notice of an Order to Withhold Income for Child Support complete 25a-d.

25a. Print name of the individual or entity sending this Notice.

25b. Print title of the individual sending this Notice, if appropriate

25c. Signature of the individual sending this Notice and date of signature.

25d. Please check the appropriate box to indicate whether you are an attorney, individual, or private entity sending this Notice of an Order.

The following information refers to federal, state, or tribal laws that apply to issuing an income withholding order/notice or notice of an order to the employer. Any state or tribal specific information may be included in space provided.

26. Check the box if the state or tribal law requires the employer to provide a copy of the Order or Notice to the employee.

27. Use this space to provide additional information on the penalty and/or citation for an employer who fails to comply with the Order or Notice. The law of the obligor's principal place of employment governs the penalty.

28. Use this space to provide additional information on the penalty and/or citation for an employer, who discharges, refuses to employ, or disciplines an employee/obligor as a result of the Order or Notice. The law of the obligor's principal place of employment governs the penalty.

29. Use this space to provide the child (ren)'s names listed in the support order and/or additional information regarding this income withholding Order or Notice of an Order.

Please provide the following contact information to the employer. Employers may need additional information to process the Order or Notice.

30a. Name of the contact person sending the Order or Notice of an Order that an employer and/or employee/obligor may call for information regarding the Order or Notice of an Order.

- 30b. Telephone number for the contact person whose name appears in #30a.
- 30c. Fax number for the person whose name appears in #30a.
- 30d. Internet address for the person whose name appears in #30a.

If the employer is a Federal Government agency, the following instructions apply.

Serve the Order or Notice of an Order upon the governmental agent listed in 5 CFR part 581, appendix A.

Sufficient identifying information must be provided in order for the obligor to be identified. It is, therefore, recommended that the following information, if known and if applicable, be provided:

full name of the obligor; (2) date of birth; (3) employment number, Department of Veterans Affairs claim number, or civil service retirement claim number; (4) component of the government entity for which the obligor works, and the official duty station or worksite; and (5) status of the obligor, e.g., employee, former employee, or annuitant.

You may withhold from a variety of incomes and forms of payment, including voluntary separation incentive payments (buy-out payments), incentive pay, and cash awards. For a more complete list see 5 CFR 581.103.

The Paperwork Reduction Act of 1995

This information collection is conducted in accordance with 45 CFR 303.100 of the child support enforcement program. Standard forms are designed to provide uniformity and standardization for interstate case processing. Public reporting burden for this collection of information is estimated to average one hour per response. The responses to this collection are mandatory in accordance with 45 CFR 303.7. This information is subject to State and Federal confidentiality requirements; however, the information will be filed with the tribunal and/or agency in the responding State and may, depending on State law, be disclosed to other parties. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.04, Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (8) in its entirety and by substituting instead the following language so that, as amended, paragraph (8) shall read as follows:

- (8) The following blank form is provided for the user's convenience:

ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT  
 NOTICE OF AN ORDER TO WITHHOLD INCOME FOR CHILD SUPPORT

ORIGINAL     AMENDED     TERMINATION                      Date:

State/Tribe/  
 Territory \_\_\_\_\_

City/Co./Dist./  
 Reservation \_\_\_\_\_

Rulemaking Hearings

Non-governmental entity or Individual

Case Number   /  

|   |     |   |
|---|-----|---|
| Employer's/Withholder's Name                          | RE: | Employee's/Obligor's Name (Last, First, MI) |
| Employer's/Withholder's Address                       |     | Employee's/Obligor's Social Security Number |
|   |     | Employee's/Obligor's Case Identifier        |
| Employer's/Withholder's Federal EIN Number (if known) |     | Obligee's Name (Last, First, MI)            |

*ORDER INFORMATION:* This document is based on the support or withholding order from \_\_\_\_\_

You are required by law to deduct these amounts from the employee's/obligor's income until further notice.

|          |           |  |
|----------|-----------|--|
| \$ _____ | Per _____ | current child support  |
| \$ _____ | Per _____ | Past-due child support – Arrears greater than 12 weeks?<br>yes    no |
| \$ _____ | Per _____ | current cash medical support   |
| \$ _____ | Per _____ | past-due cash medical support  |
| \$ _____ | Per _____ | spousal support  |
| \$ _____ | Per _____ | past-due spousal support   |
| \$ _____ | Per _____ | other (specify) _____  |

for a total of \$ \_\_\_\_\_ per \_\_\_\_\_ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

|   |  |
|---|--|
| \$ _____ per weekly pay period.                           | \$ _____ per semimonthly pay period (twice a month). |
| \$ _____ per biweekly pay period (every two _____ weeks). | \$ _____ per monthly pay period.                     |

*REMITTANCE INFORMATION:* When remitting payment, provide the pay date/date of withholding and the case identifier. If the employee's/obligor's principal place of employment is Tennessee, begin withholding no later than the first pay period occurring 14 working days after the date of \_\_\_\_\_. Send payment within 7 working days of the pay date/date of withholding. The total withheld amount, including your fee, may not exceed 50% of the employee's/obligor's aggregate disposable weekly earnings.

If the employee's/obligor's principal place of employment is not Tennessee, for limitations on withholding, applicable time requirements, and any allowable employer fees, follow the laws and procedures of the employee's/obligor's principal place of employment (see #3 and # 9, ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS).

Make check payable to : \_\_\_\_\_ Send check to: \_\_\_\_\_

\_\_\_\_\_ If remitting payment by EFT/EDI, call \_\_\_\_\_ before first submission. \_\_\_\_\_

\_\_\_\_\_ Use this FIPS code: \_\_\_\_\_ Bank routing number: \_\_\_\_\_ Bank account number: \_\_\_\_\_ \_\_\_\_\_

|   |   |
|---|---|
| <p><u>If this is an Order/Notice to Withhold:</u></p> <p>Print Name _____</p> <p>Print Name _____</p> <p>Title of Issuing Official _____</p> <p>Signature _____</p> <p>Date _____</p> | <p><u>If this is a Notice of an Order to Withhold:</u></p> <p>Title (if appropriate) _____</p> <p>Signature _____</p> <p>Date _____</p> |
|---|---|

|   |                              |   |
|---|------------------------------|---|
| <p>IV-D Agency</p> <p>Attorney with authority under state law to issue order/notice</p> | <p>Court</p> <p>Attorney</p> | <p>Individual</p> <p>Private Entity</p> |
|---|------------------------------|---|

NOTE: Non-IV-D Attorneys, individuals, and non-governmental entities must submit a Notice of an Order to Withhold and include a copy of the income withholding order unless, under a state’s law, an attorney in that state may issue an income withholding order. In that case, the attorney may submit an Order/Notice to Withhold and include a copy of the state law authorizing the attorney to issue an income withholding order/notice.

IMPORTANT: The person completing this form is advised that the information on this form may be shared with the obligor.

OMB 0970-0154

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

If checked, you are required to provide a copy of this form to your employee/obligor. If your employee works in a state that is different from the state that issued this order, a copy must be provided to your employee/obligor even if the box is not checked.

1. **Priority:** Withholding under this Order or Notice has priority over any other legal process under state law (or tribal law, if applicable) against the same income. If there are federal tax levies in effect, please notify the contact person listed below. (See 10 below.)
2. **Combining Payments:** You may combine withheld amounts from more than one employee’s/obligor’s income in a single payment to each agency/party requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.
3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the amount was withheld from the employee’s wages. You must comply with the law of the state of the employee’s/obligor’s principal place of employment with respect to the time periods within which you must implement the withholding and forward the support payments.
4. **Employee/Obligor with Multiple Support Withholdings:** If there is more than one Order or Notice against this employee/obligor and you are unable to honor all support Orders or Notices due to federal, state, or tribal withholding limits, you must follow the state or tribal law/procedure of the employee’s/obligor’s principal place of employment. You must honor all Orders or Notices to the greatest extent possible. (see 9 below.)

## Rulemaking Hearings

5. Termination Notification: You must promptly notify the Child Support Enforcement (IV-D) Agency and/or the contact person listed below when the employee/obligor no longer works for you. Please provide the information requested and return a complete copy of this Order or Notice to the Child Support Enforcement (IV-D) Agency and/or the contact person listed below. (See 10 below.)

THE EMPLOYEE/OBLIGOR NO LONGER WORKS FOR: \_\_\_\_\_  
EMPLOYEE'S/OBLIGOR'S NAME: \_\_\_\_\_ CASE IDENTIFIER: \_\_\_\_\_  
DATE OF SEPARATION FROM EMPLOYMENT: \_\_\_\_\_  
LAST KNOWN HOME ADDRESS: \_\_\_\_\_  
NEW EMPLOYER/ADDRESS: \_\_\_\_\_

6. Lump Sum Payments: You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the Child Support Enforcement (IV-D) Agency.
7. Liability: If you have any doubts about the validity of the Order or Notice, contact the agency or person listed below under 10. If you fail to withhold income as the Order or Notice directs, you are liable for both the accumulated amount you should have withheld from the employee's/obligor's income and any other penalties set by state or tribal law/procedure.

- 
- 
8. Anti-discrimination: You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

- 
- 
9. Withholding Limits: For state orders, you may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. §1673(b)); or 2) the amounts allowed by the state of the employee's/obligor's principal place of employment. The federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: state, federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by 1) 10% if the employee does not support a second family; and /or 2) 5% if arrears greater than 12 weeks. For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers who receive a state order, you may not withhold more than the amounts allowed under the law of the state that issued the order.

Child(ren)'s Names and Additional Information: \_\_\_\_\_

Tennessee Employers/Payers of Income should refer to the Department's Rule 1240-2-2-.05, available on the Internet at <http://www.state.tn.us/sos/rules/1240/1240-02/1240-02-02.pdf>, for state specific information about the priority and proration of payments if multiple Orders/Notices are received for one employee.

10. If you or your employee/obligor have any questions, contact: \_\_\_\_\_ by telephone at \_\_\_\_\_  
by Fax at \_\_\_\_\_ or by Internet at \_\_\_\_\_@\_\_\_\_\_

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.



Rule 1240-2-2-.06, Court Clerk's Notice to Obligor of Issuance of Income Assignment Due to Delinquency, is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) For an Order for Income Assignment, the Federal Order/Notice to Withhold Income for Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the notice to the obligor in Paragraph (5).

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.07, Department Notice to Obligor of Issuance of Income Assignment, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) For an initial Order for Income Assignment, the Federal Order/Notice to Withhold Income or Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (5).

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.08, Department Notice to Obligor of Issuance of Income Assignment Due to Delinquency, is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) The Federal Order/Notice to Withhold Income for Child Support (Order for Income Assignment) form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (6).

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.09, Department Notice to Obligor of Increase in Income Assignment to Administratively Reduce Arrears, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) The modified form set forth in 1240-2-2-.04 will be attached to the Notice form in Paragraph (5).

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.10, Department Notice of Enrollment in Health Care Coverage, is amended by deleting paragraph (2) in its entirety and by substituting instead the following language so that, as amended, paragraph (2) shall read as follows:

- (2) For a modification of a previous Order/Notice to Withhold Income for Child Support (Order for Income Assignment) which now includes a notice of enrollment in health care, the modified form set forth in 1240-2-2-.4, with the appropriate Departmental notice to the employer of enrollment of the obligor's child(ren) checked on page 1 of the form will be attached to the Notice form in Paragraph (4).

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.12, Modified Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraph (3) in its entirety and by substituting instead the following language so that, as amended, paragraph (3) shall read as follows:

- (3) For a modification of the amount of a previous Order/Notice to Withhold Income for Child Support (Order for Income Assignment), the Notice form in Paragraph (3) will be attached, by the Department of Human Services or its contractors enforcing child support under Title IV-D, to the modified Order.

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

Rule 1240-2-2-.12, Modified Order/Notice to Withhold Income for Child Support (Order for Income Assignment), is amended by deleting paragraphs (1), (2), and (3), the "Form," in their entireties and by renumbering the remaining paragraphs as appropriate.

**Authority:** T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.

## NEW RULE

### **1240-2-2-.05 INFORMATION FOR WITHHOLDING BY TENNESSEE EMPLOYERS/PAYERS OF INCOME.**

- (1) The Order/Notice to Withhold Income for Child Support, also referred to as an Order for Income Assignment, Income Assignment, Income Assignment Order, or Assignment, must be implemented no later than fourteen (14) calendar days after the date noted at the top-left portion of that form, the date of personal service, or the other date of any other form of transmission of this notice.
- (2) The payments may be deducted from the employee's or income recipient's wages, or other income, either weekly, biweekly, or monthly to coincide with his/her pay periods or other periods for payment of income, but must be sent to the address shown on page 1 of that Order within seven (7) days of the date the employee or income recipient is paid along with the date the deduction was made.
- (3) "Employer, person, corporation or institution," who or which may be required to withhold income, includes

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the federal government, the State and any political subdivision thereof and any other business entity which has in its control funds due to be paid to a person who is obligated to pay child support.

- (4) The amount withheld for support may not be in excess of fifty percent (50%) of the net wages of an employee or other income due an income recipient after the deduction of FICA, withholding taxes, and health insurance premiums which cover the child (ren).
- (5) This Order for Income Assignment is binding upon you until further notice by this office. If you fail to withhold income in accordance with the provisions of this Order, you are liable for any amount up to the accumulated amount which should have been withheld from the income of the employee or income recipient. Your compliance with this Order shall operate as a discharge of your liability to the affected employee or other recipient of income as to that portion of the employee's or recipient's income affected by the Order.
- (6) Tennessee Code Annotated §36-5-501(h) provides that the employer, person, corporation, or institution that is ordered to comply with this order shall be subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to employ a person or to discharge the employee or for any disciplinary action against the employee, or if the employer fails to withhold the amounts from the employee or fails to pay such amount to the Clerk of the Court or the Department of Human Services as may be directed by the Order.
- (7) Withholding of support in accordance with this notice shall have priority over any other legal process under state law against the same wages or other income for debts other than child support.
- (8) If you are unable to deduct the full amount specified in this order due to the fifty percent (50%) limitation, the payment should also specify, for each obligor, the individual's income after taxes, FICA, health insurance premiums deducted to cover the child (ren), and whether you have received prior Orders for Income Assignment which prevent you from fully complying with this order.
- (9) You may, at your discretion, charge the employee or other recipient of income an amount of up to five percent (5%), not to exceed five dollars (\$5) per month, for your costs in complying with this order. This amount could vary upward depending on changes in the law at T.C.A. §36-5-501.
- (10) If you are required to withhold support from more than one person, it is allowable to combine withheld amounts in a single payment to each appropriate court or other entity ordering the assignments; however, you must provide a listing indicating which portion of the single payment is attributable to each individual.
- (11) The date the support was deducted from the obligor's paycheck must be provided with each payment transmitted to the Department.
- (12) Pursuant to T.C.A. § 36-5-501(g), you are required to notify the Department when the employee terminates employment or if income payments are terminated and provide this office the last known address of the employee/recipient of income and the name and address of his/her new employer, or new source of income, if known. This Order for Income Assignment is binding upon successive employers fourteen (14) days after it is transmitted to them.
- (13) Priorities for Payments if More Than One Order for Income Assignment Is Received.

If the employer, person, corporation or institution or other payer of income receives more than one (1) Order for Income Assignment against the employee/obligor, priority in deducting income shall be as follows:

- (a) First priority: To all orders for amounts due for current support due a child;

- (b) Second priority: To all orders for amounts due for arrearages due a child;
  - (c) Third priority: To all orders for amounts due for current support due a spouse;
  - (d) Fourth priority: To all orders for amounts due for arrearages due a spouse; and,
  - (e) Fifth priority: To all statutory fees and court costs.
- (14) You must honor all withholdings to the extent the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages or a recipient's income after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted.
- (15) Multiple Income Assignments for One Employee or Recipient of Income.

If you receive any Order for Income Assignment for current child support against the employee's income which would cause the deductions from any two (2) or more assignments for current child support to exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child (ren) are deducted, the following process shall be utilized:

- (a) Determine the total of all current child support ordered withheld by all Orders for Income Assignment you receive for the employee or recipient of income;
  - (b) Then calculate the percentage that each current child support order represents of the total;
  - (c) The available income will be allocated by you according to the percentage which each Order for Income Assignment for current child support bears to the total of all Orders for Income Assignment involving this employee or recipient of income for current child support.
  - (d) In the event all current child support obligations are met from the assignments and child support arrearages exist in more than one case and there is not sufficient income to pay all ordered child support arrearages, then the child support arrearages will be allocated by you on the same basis as in steps 1- 3.
- (16) You must provide for each case the following information: docket number, county, state, full ordered amount, the percentage that each current support order represents of the total ordered amounts from all income assignments ordered for this employee or recipient of income, and the date the amount is deducted from the employee's or recipient's income.
- (17) Example of a Proration for Multiple Income Assignment.
- (a) Assume an employee's net income after taxes, FICA, and a health insurance premium to cover the child (ren) is deducted is \$900. Therefore, the available income for use in the income assignment is only \$450 (50% maximum of the employee's net income).
  - (b) If the employee is ordered to pay \$250.00 per month under support order A; \$200.00 per month for support order B; and \$150.00 per month for support order C; then the total of all income assignments is \$600.00. This total exceeds income available for income assignment [after deduction for taxes, FICA, and health insurance premiums which cover the child (ren)].
  - (c) You will then pay the amount of the available income that each Order for Income Assignment represents as a percentage of the total of all Orders for Income Assignment as follows:
    - 1. Order A =  $\$250/\$600$ , or 42%, x  $\$450 = \$189.00$ ;

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2. Order B =  $\$200/\$600$ , or 33%, x  $\$450 = \$148.50$ ;
  3. Order C =  $\$150/\$600$ , or 25%, x  $\$450 = \$112.50$ ;
- (d) If the employee has sufficient available income to satisfy all current child support orders, but not all ordered child support arrearages, you would apply the same proration procedure to the child support arrearage payment as shown above.

**Authority:** *T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 71-1-132(c), 42 U.S.C. §§ 651, et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) 654b(a) and 666(a)(8) and (b), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 04-05, July 15, 2004.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2005.  
(03-44)

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

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to T.C.A. §§ 4-5-201 et seq. and 36-5-912. 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 at the following locations: Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Monday, May 16, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Tuesday, May 17, 2005; and Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Wednesday, May 18, 2005.

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

For a copy of this notice of rulemaking hearing, contact: 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 DIVISION  
CHAPTER 1240-2-5  
LIENS FOR CHILD SUPPORT  
AMENDMENTS**

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting paragraph (3) in its entirety.

**Authority:** T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001, and Action Transmittal 05-04, January 4, 2005.

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting subparagraph (a) of paragraph (1) in its entirety and by substituting instead the following language so that, as amended, subparagraph (a) shall read as follows:

- (a) The Department or its contractors in the Title IV-D program may use the form in paragraph (2) as necessary to give notice of the existence of the lien in intrastate cases, or, in interstate cases as provided by Federal law. Following the form are instructions for its use.

**Authority:** T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001, and Action Transmittal 05-04, January 4, 2005.

Rule 1240-2-5-.16, Child Support Lien Notice and Instructions, is amended by deleting paragraph (2) in its entirety and by substituting instead the following:



STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES

Fax

Type Name here  
Address  
City, State Zip

NOTICE OF LIEN

OBLIGOR:

OBLIGEE:

IV-D CASE #:

This lien results from a child support order, entered on \_\_ / \_\_ / \_\_ by \_\_\_\_\_ in \_\_\_\_\_ County, TN, Tribunal Number \_\_\_\_\_.

As of \_\_ / \_\_ / \_\_, the obligor owes unpaid support in the amount of \$ \_\_\_\_\_. This judgment may be subject to interest.

Prospective amounts of child support, not paid when due, are judgments that are added to the lien amount. This lien attaches to all non-exempt real and/or personal property of the above-named obligor which is located or existing within the State/county of filing, including any property specifically described below.

Specific description of property:

All aspects of this lien, including its priority and enforcement, are governed by the law of the State where the property is located. An obligor must follow the laws and procedures of the State where the property is located or recorded. An obligor may also contact the entity sending the lien. This lien remains in effect until released or withdrawn by the obligee or in accordance with the laws of the State where the property is located.

Note to Lien Recorder: Please provide the sender with a copy of the filed lien, containing the recording information, at the address provided above.

Check either "A" or "B" below. The option that does not apply may be omitted from the form. If "B" is checked, the form must be notarized.

A.  Submitted by a IV-D agency/office on behalf of the named obligee  
As an authorized agent of a State or Tribal, or subdivision of a State or Tribal, agency responsible for implementing

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the child support enforcement program set forth in Title IV, Part D, of the Federal Social Security Act (42 U.S.C. 651 et seq.), I have authority to file this child support lien in any State, or U.S. Territory. For additional information regarding this lien, including the pay-off amount, please contact the authorized agency and reference its case number, both listed above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Print name, e-mail address, phone and fax number

B.  Submitted by an obligee or a private (non-IV-D) attorney or entity on behalf of an obligee.

I am:

the obligee of the above referenced order [or]

an attorney or entity representing the above named obligee.

I certify, under penalty of perjury, that the information contained in this notice is true and accurate and that this lien is submitted in accordance with the laws of the State of Tennessee. For additional information regarding this lien, including the pay-off amount, please contact the obligee listed above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name, e-mail address, phone and fax number

\*\*\*\*\*

Notary State: \_\_\_\_\_

County: \_\_\_\_\_



I certify that \_\_\_\_\_ appeared before me and is known to me as the individual who signed the above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My appointment expires \_\_\_\_\_

Notice: Respondents are not required to respond to this information collection unless it displays a valid OMB control number. The average burden for responding to this information collection is estimated at 30 minutes. If you believe this estimate is inaccurate, or if you have ideas to reduce this burden, please provide comment to the issuing agency.

OMB Control #: 0970-0153 Expiration Date: 01/31/2008

#### Instructions for the Notice of Lien

Purpose of This Form: 42 USC 654(9)(E) requires all IV-D programs to use the Notice of Lien form in interstate cases. IV-D programs may also use the form to impose liens in intrastate cases. This form may also be used for non-IV-D orders by an obligee or his or her private attorney. This form may be used to assert liens on assets discovered through the Financial Institution Data Match process. Please note that the expiration date on this form is the Office of Management and Budget expiration date, not the expiration date of the lien itself.

Whose Laws Apply?: All aspects of this lien, including its priority and enforcement, are governed by the law of the State where the property is located. Issue the lien to secure debts for past-due support upon identifying, in another State, nonexempt real or personal property belonging to the obligor. The laws and procedures of the State where the property is located or recorded determine which office or entity in that State is the appropriate one to receive the lien for filing. It is the responsibility of the agency/office or private attorney issuing the lien to file it with the appropriate entity.

Release of Lien: To release a previously-filed lien (e.g., upon receipt of full payment, or partial payment with an acceptable agreement to repay remaining balance, etc.) the original issuing State shall use its existing local release of lien form. A copy of the release of lien should be provided to the obligor. Identify the lien to be released by including the recording information provided by the office or entity that filed the lien (Lien Recorder). The laws and procedures of the State where the lien is filed control the release of the lien.

To complete this form:

1. At the top of the form, place the name, address, and fax number of the recorder (i.e., County Auditor, Clerk of Court, DMV, etc.) or asset holder (i.e., Financial Institution, Estate Executor, Trustee, etc.) to which you are sending the lien.

NOTE: The procedures of the State where the property is located determine which person or entity in that State is the appropriate one to receive the lien for filing. It is the responsibility of the person/entity/agency submitting the lien to file/serve it correctly.

2. In the "OBLIGOR" field place the obligor's full name, address, date of birth (if known) and social security number (if known). Include known aliases or multiple social security numbers used by the obligor.

3. In the "OBLIGEE" field insert the obligee's full name. Note that the obligee may be the individual obligee, a public

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IV-D agency, or a private attorney, person or entity with a proper assignment from the individual obligee.

4. In the “IV-D Case #” field, enter the number/identifier identical to the one submitted on the Federal Case Registry, which is a left-justified 15-character alphanumeric field, allowing all characters except asterisk and backslash, and with all characters in uppercase.

5. In the space following “entered on”, insert the date of entry of the order that is the basis for the lien.

6. In the space following “by”, identify the tribunal that issued the support order that is being used to determine the amount of the lien. A tribunal is a court, administrative agency, or quasi-judicial entity that has the authority to establish, enforce, and modify child support obligations.

7. In the space following “in”, identify the location (State/county) of the tribunal that issued the support order that is being used to determine the amount of the lien.

8. In the space following “tribunal number”, identify the tribunal docket, jacket or file number of the support order that is used to determine the amount of the lien.

9. In the space following “As of”, insert the date of the debt calculation that is used in determining the amount of the lien.

10. In the space following “amount of \$”, insert the lien amount (the amount of the past-due support obligation owed when the lien is prepared). Interest may be included in the lien amount if permitted under the law of the State where the lien is filed.

11. In the space following “Specific description of property”, identify any specific property that you want the lien to attach to. Use the legal description of real property and, when the target of the lien is personal property, always provide the most specific identifying information available, including the location of the property, if known. (For example, include the make/model/year/appropriate registration numbers (if known), as opposed to referring to such personal property as “farm equipment”). For Financial Institutions, list the account numbers.

12. Check “A” if the lien is submitted by a IV-D agency and check “B” if the lien is submitted by an obligee or his or her private attorney.

13. Provide the date the lien is signed on the line provided above “date”.

14. If “A” is checked, the appropriate individual should sign the lien on the line above “Authorized Agent”. Type or print the name of the agent signing the lien below their signature. Include the agent’s name, e-mail address (if available) and phone and fax numbers. If “A” is checked, the form does not need to be notarized. Note that, in IV-D cases, the pay-off amount will be available only from the IV-D agency.

15. If “B” is checked, the appropriate individual should sign the lien on the line above the two check boxes and should check the appropriate box. Type or print the name of the person signing the lien below their signature. Include the person’s name, e-mail address (if available) and phone and fax numbers.

16. If “B” is checked, the signature of the party signing the lien must be notarized.

17. In the spaces following “Notary State” and “County”, insert the name of the State and County (if applicable) where the notary is commissioned.

18. Send a copy of the lien to the obligor at his/her last known address.

**Authority:** *T.C.A. §§ 4-5-202; 36-5-901, et seq.; 36-5-912, 42 U.S.C. §§ 652, 654(9)(E) and 666; United States Department of Health and Human Services’ Office of Child Support Enforcement Action Transmittal 01-06, April 4, 2001,*

*and Action Transmittal 05-04, January 4, 2005.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2005.  
(03-43)

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

There will be a hearing before the Tennessee Board of Medical Examiners' Advisory Committee for Acupuncture to consider the promulgation of amendments to rules and a new rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-6-1004, 63-6-1005, 63-6-1006, 63-6-1007, and 63-6-1009. 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 6th day of June, 2005.

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

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

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

**SUBSTANCE OF PROPOSED RULES**

**AMENDMENTS**

Rule 0880-12-.04 Acupuncture Certification Process, is amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, and is further amended by adding the following language as new subparagraph (2) (g) and renumbering the remaining subparagraphs accordingly, so that as amended, the new deleting paragraph (1) but not its subparagraphs and the new subparagraph (2) (g) shall read:

- (1) Grandfathering – Any person is eligible to receive a certificate upon compliance with all subparagraphs contained in paragraph (2) except subparagraphs (e), (i), and (j) and upon further showing satisfactory proof of one (1) of the following:
- (2) (g) An applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's certification application materials, the result of a criminal background check.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-6-1004, 63-6-1005, and 63-6-1007.

Rule 0880-12-.05 ADS Certification Process, 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 Committee's administrative office directly from the vendor identified in the Committee's certification application materials, the result of a criminal background check.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-6-1004, and 63-6-1007.

Rule 0880-12-.09 Certification Renewal, is amended by deleting subparagraphs (6) (a) and (6) (b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (6) (a) and (6) (b) shall read:

- (6) (a) For persons whose certificates have expired for less than (2) years:
  - 1. Submit a completed reinstatement application; and
  - 2. Submit the renewal and late renewal fees as provided in Rule 0880-12-.06; and
  - 3. For acupuncturists, submit along with the application, documentation of successful completion of the continuing education requirements provided in Rule 0880-12-.12 for the two (2) calendar year (January 1 – December 31) period that the certificate was expired that precedes the calendar year during which the reinstatement is requested.
  
- (6) (b) For persons whose certificates have expired for two (2) years or more:
  - 1. Submit a new application for certification pursuant to either Rule 0880-12-.04 or .05; and
  - 2. Submit the application, initial certification, and certification reinstatement fees as provided in Rule 0880-12-.06; and
  - 3. For acupuncturists, submit along with the application, documentation of successful completion of the continuing education requirements provided in Rule 0880-12-.12 for all the two (2) calendar year (January 1 – December 31) periods that the certificate was expired that precede the calendar year during which the reinstatement is requested.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-1004, 63-6-1006, and 63-6-1009.

Rule 0880-12-.11 Retirement and Reactivation of Certificate, is amended by adding the following language as new subparagraph (3) (c) and renumbering the remaining subparagraphs accordingly:

- (3) (c) For acupuncturists, submit along with the application, documentation of successful completion of fifteen (15) points of continuing education pursuant to Rule 0880-12-.12; and

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

## NEW RULE

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0880-12-.12 Continuing Education

0880-12-.12 Continuing Education. All persons certified as acupuncturists must comply with the following continuing education rules as a prerequisite to certification renewal.

- (1) All certified acupuncturists must obtain thirty (30) Professional Development Activity (PDA) points, as defined by NCCAOM, during the two (2) calendar year (January 1-December 31) period that precedes the year in which certification is renewed.
- (2) Continuing education for new certificate holders - Submitting proof of successful completion of all educa-

- tion and training requirements required for certification in Tennessee, pursuant to Rule 0880-12-.04, shall be considered proof of sufficient preparatory education to constitute successful completion of continuing education requirements for the two (2) calendar year (January 1-December 31) period in which such education and training requirements were completed.
- (3) The approved hours of any individual course or activity will not be counted more than once in a two (2) calendar year (January 1-December 31) period toward the required point total regardless of the number of times the course or activity is attended or completed by any individual.
  - (4) The Committee and/or Board may waive or otherwise modify the requirements of this rule in cases where there is illness, disability or other undue hardship that prevents a certificate holder from obtaining the requisite number of continuing education points. Requests for waivers or modification must be sent in writing to the Administrative Office prior to the expiration of the renewal period in which the continuing education is due.
  - (5) Acceptable Continuing Education Courses and Activities – The following professional courses and activities qualify for PDA points of continuing education:
    - (a) Courses – One (1) point for each hour of courses that directly enhance an acupuncturist’s knowledge and/or practice of acupuncture. Points may be earned for courses in Oriental medical theory and techniques such as bodywork, nutrition, and herbology, as well as courses in western sciences that relate to the practice of Acupuncture. Points may also be earned for the study of tai chi and qi gong.
    - (b) Research – One point for every two (2) hours of documented research. Acceptable research projects include those that relate to knowledge and/or practice in acupuncture.
    - (c) Writing for Publication – Ten (10) points for each article; Thirty (30) points for a book or major work. Publications include articles, studies, reports, books, etc., that relate to knowledge and/or practice in acupuncture.
    - (d) Teaching/Clinic Supervision – One (1) point for each clock hour of instruction or supervision relating to acupuncture. Teaching or supervision refers to the ongoing responsibility for theoretical and/or practical education. Credit can be earned for a variety of teaching positions, including teaching or clinical supervision in a formal school or preceptorship, provided there is appropriate documentation.
    - (e) Supervised Clinical Experience – One and one-half (1½) points for each clock hour of supervised clinical experience under a senior acupuncturist who has a minimum of five years of experience in acupuncture and is an NCCAOM Diplomate in Acupuncture. The clinical experience may include observation, case discussion, and/or supervised practice.
  - (6) Proof of Compliance
    - (a) The due date for completion of the required continuing education is December 31<sup>st</sup> of the two (2) calendar year period that precedes the year in which certification is renewed.
    - (b) All acupuncturists must, on the certificate renewal form, enter a signature, electronic or otherwise, which indicates completion of the required continuing education obtained during the two (2) calendar year (January 1-December 31) period that precedes the year in which certification is renewed.
    - (c) All acupuncturists must retain independent documentation of completion of all continuing education courses and activities. This documentation must be retained for a period of four (4) years from the end of the two (2) calendar year (January 1-December 31) period in which the continuing education

## Rulemaking Hearings

was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process. Documentation verifying the acupuncturist's completion of the continuing education may consist of any one (1) or more of the following:

1. Courses – Dates, locations of continuing education courses, number of hours, course title/content and instructor's name, documented by notarized photocopies of original certificates of completion or original letters on official stationery from the course provider.
  2. Research – Dates, location, and subject/title of research, documented by a notarized photocopy of an affidavit from a school, hospital, or other official agency detailing the activity.
  3. Writing for Publication – Dates, titles, and names of publishers, documented by a photocopy of the title page.
  4. Teaching Acupuncture Related Courses – Dates and locations of classes, syllabi, course titles and course hours, documented by catalogs, computer records, or notarized photocopies of certificates and other official statements that verify the activities and hours involved.
  5. Preceptorship – Dates, hours, and locations of clinical or apprenticeship activity, documented by a notarized photocopy of an affidavit from the supervising practitioner.
- (d) If a person submits documentation for continuing education that is not clearly identifiable as appropriate continuing education, the Committee and/or Board will request a written description of the education and how it applies to practice as an acupuncturist.

### (7) Violations

- (a) Any acupuncturist who falsely attests to completion of the required continuing education may be subject to disciplinary action pursuant to Rule 0880-12-.15.
- (b) Any acupuncturist who fails to obtain the required continuing education may be subject to disciplinary action pursuant to Rule 0880-12-.15 and may not be allowed to renew certification.
- (c) Continuing education obtained as a result of compliance with the terms of Committee and/or Board Orders in any disciplinary action shall not be credited toward the continuing education required to be obtained in any two (2) calendar year (January 1-December 31) period.

**Authority:** *T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-6-1004, and 63-6-1007.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2005.  
(03-37)

**BOARD OF NURSING - 1000**

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 5<sup>th</sup> Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 19<sup>th</sup> 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 Flr., Cordell Hull Building, 425 5<sup>th</sup> 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 1000-1-.01, Licensure by Examination, is amended by adding the following language as new subparagraph (1) (e) and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraphs (5) and (6) in their entirety, so that as amended, the new subparagraph (1) (e) shall read:

- (1) (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.

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

Rule 1000-1-.02, Licensure Without Examination: By Interstate Endorsement, is amended by adding the following language as new subparagraph (1) (e) and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraph (4) in its entirety, so that as amended, the new subparagraph (1) (e) shall read:

- (1) (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.

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

Rule 1000-2-.01, Licensure by Examination, is amended by adding the following language as new subparagraph (1) (e) and renumbering the remaining subparagraph accordingly:

- (1) (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.

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



Rule 1000-2-.02, Licensure Without Examination: By Interstate Endorsement, is amended by adding the following language as new subparagraph (1) (e) and renumbering the remaining subparagraph accordingly, and is further amended by deleting paragraph (4) in its entirety, so that as amended, the new subparagraph (1) (e) shall read:

- (1) (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.

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

**NEW RULES**

**CHAPTER 1000-1  
RULES AND REGULATIONS OF REGISTERED NURSES**

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1000-1-.18 Free Health Clinic and Volunteer Practice Requirements

**CHAPTER 1000-2  
RULES AND REGULATIONS OF LICENSED PRACTICAL NURSES**

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1000-2-.17 Free Health Clinic and Volunteer Practice Requirements

**1000-1-.18 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.**

- (1) Free Health Clinic Practice Pursuant to T.C.A. § 63-1-201
  - (a) Any nurse licensed to practice in this state or any other state who has not been disciplined by any nursing licensure board may have their license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. § 63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. § 63-1-201, at a specified site or setting by doing the following:
    - 1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and
    - 2. For nurses who have not been licensed in Tennessee, comply with all provisions of paragraph (1) of rule 1000-1-.02 and, if applicable, the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and
    - 3. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic's private, and not-for-profit status.
  - (b) A nurse holding a Special Volunteer License is not required to pay any fee for its issuance or the required biennial renewal pursuant to the Division of Health Related Board's biennial birthdate renewal system

- (c) A nurse holding a Special Volunteer License may not do any of the following:
    - 1. Practice nursing anywhere other than in the free health clinic site or setting specified in the application; and
    - 2. Charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and
    - 3. Practice for any free health clinic that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
  - (d) Special Volunteer applicants and licensees are subject to all of the following:
    - 1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rule 1000-1-.03, except those requiring the payment of any fees; and
    - 2. The rules governing continuing nursing competence as provided by rule 1000-1-.14; and
    - 3. Disciplinary action for the same causes and pursuant to the same procedures as all other licenses issued by the Board.
- (2) Practice Pursuant to the “Volunteer Health Care Services Act” T.C.A. §§ 63-6-701, et seq.
- (a) Any nurse licensed in this or any other state, territory, district or possession of the United States whose license is not under a disciplinary order of suspension or revocation may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
  - (b) Any nurse who may lawfully practice in this or any other state, territory, district or possession of the United States under an exemption from licensure and who is not under a disciplinary order of suspension or revocation and who is not and will not “regularly practice,” as defined by T.C.A. § 63-6-703 (3) may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
  - (c) A nurse or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
  - (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice only when it has complied with the provisions of T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-201, 63-6-701 through 707, 63-7-102, 63-7-104, 63-7-105, 63-7-207, and 63-7-210.

**1000-2-.17 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS**

- (1) Free Health Clinic Practice Pursuant to T.C.A. § 63-1-201
  - (a) Any nurse licensed to practice in this state or any other state who has not been disciplined by any nursing licensure board may have their license converted to or receive a Tennessee “Special Volunteer License,” as defined in T.C.A. § 63-1-201, which will entitle the licensee to practice without remuneration solely within a “free health clinic,” as defined by T.C.A. § 63-1-201, at a specified site or setting by doing the following:
    1. Obtaining from the Board’s administrative office a “Special Volunteer License” application, completing it and submitting it along with any required documentation to the Board’s administrative office; and
    2. For nurses who have not been licensed in Tennessee, comply with all provisions of paragraph (1) of rule 1000-2-.02 and, if applicable, the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and
    3. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic’s private, and not-for-profit status.
  - (b) A nurse holding a Special Volunteer License is not required to pay any fee for its issuance or the required biennial renewal pursuant to the Division of Health Related Board’s biennial birthdate renewal system
  - (c) A nurse holding a Special Volunteer License may not do any of the following:
    1. Practice nursing anywhere other than in the free health clinic site or setting specified in the application; and
    2. Charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and
    3. Practice for any free health clinic that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
  - (d) Special Volunteer applicants and licensees are subject to all of the following:
    1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rules 1000-2-.03, except those requiring the payment of any fees; and
    2. The rules governing continuing nursing competence as provided by rule 1000-2-.14; and
    3. Disciplinary action for the same causes and pursuant to the same procedures as all other licenses issued by the Board.
- (2) Practice Pursuant to the “Volunteer Health Care Services Act” T.C.A. §§ 63-6-701, et seq.
  - (a) Any nurse licensed in this or any other state, territory, district or possession of the United States whose license is not under a disciplinary order of suspension or revocation may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and

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T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.

- (b) Any nurse who may lawfully practice in this or any other state, territory, district or possession of the United States under an exemption from licensure and who is not under a disciplinary order of suspension or revocation and who is not and will not “regularly practice,” as defined by T.C.A. § 63-6-703 (3) may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
- (c) A nurse or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
- (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice only when it has complied with the provisions of T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-201, 63-6-701 through 707, 63-7-102, 63-7-108, 63-7-109, 63-7-207, and 63-7-210.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of March, 2005.  
(03-02)

**BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS - 1020**

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of 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 1020-1-.08 Procedures for Licensure, is amended by adding the following new language as paragraph (11):

- (11) 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, 63-16-103, and 63-16-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of March, 2005. (03-15)

**BOARD OF OSTEOPATHIC EXAMINATION - 1050**

There will be a hearing before the Tennessee Board of Osteopathic Examination to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-104, 63-9-111, and 63-9-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 6th 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 1050-2-.03 Licensure Process, is amended by adding the following language as new subparagraph (1) (j) and renumbering the remaining subparagraph accordingly, and is further amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (j) and (2) (b) shall read:

- (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) (b) The applicant must comply with all provisions of paragraph (1) of this rule.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-111.

Rule 1050-2-.04 Training, is amended by deleting the introductory language of the rule in its entirety and substituting instead the following language, and is further amended by deleting part (1) (a) 2. in its entirety and substituting instead the following language, so that as amended, the new introductory language and the new part (1) (a) 2. shall read:

1050-2-.04 Training. Those persons who pursuant to T.C.A. § 63-9-104 (d) may be eligible to practice osteopathic medicine in Tennessee while participating in a training program such as described in 1050-2-.03 (1) (k) with a training license issued by the Board may secure such license pursuant to paragraph (1) of this rule. Those persons pursuant to T.C.A. §§ 63-9-104(c) who may be eligible to practice osteopathic medicine in Tennessee with a Board issued exemption from licensure may secure such exemptions pursuant to paragraph (2) of this rule. Persons who have been issued a license to practice osteopathic medicine in Tennessee and whose license has not been revoked or suspended need not obtain an exemption from licensure or a training license pursuant to this rule to be able to participate in a training program.

- (1) (a) 2. The documentation required by rule 1050-2-.03 subparagraphs (1) (b), (1) (c), (1) (e), (1) (f), (1) (i) and (1) (j) for each applicant.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-104, and 63-9-111.

Rule 1050-2-.05 Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure, is amended by adding the following language as new subparagraph (10) (d) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting part (11) (a) 2. in its entirety and substituting instead the following language, so that as amended, the new subparagraph (10) (d) and the new part (11) (a) 2. shall read:

- (10) (d) The physician 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.
- (11) (a) 2. All documentation required by rule 1050-2-.03 subparagraphs (1) (b), (1) (f), (1) (i), (1) (j) and (2) (a).

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-111.

Rule 1050-2-.17 Telemedicine Licensure, is amended by deleting part (2) (a) 2. in its entirety and substituting instead the following language, so that as amended, the new part (2) (a) 2. shall read:

- (2) (a) 2. All documentation required by rule 1050-2-.03 subparagraphs (1) (b), (1) (f), (1) (g), (1) (i), (1) (j) and (2) (a).

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-111.

Rule 1050-3-.04 Qualifications for Full and Limited Certification, is amended by adding the following language as new subparagraph (2) (g) and renumbering the remaining subparagraph accordingly:

- (2) (g) 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; and

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-111, and 63-9-112.

Rule 1050-3-.05 Obtaining and Upgrading Full and Limited Certification, is amended by adding the following language as new part (1) (b) 4. and renumbering the remaining part accordingly, and is further amended by adding the following language as new part (1) (c) 4., and is further amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new parts (1) (b) 4. and (1) (c) 4., and the new paragraph (4) shall read:

- (1) (b) 4. 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.
- (1) (c) 4. 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.
- (4) Application review and decisions shall be governed by paragraphs (1) through (6) and paragraph (9) of Rule 1050-2-.05.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-111, and 63-9-112.

## Rulemaking Hearings

Rule 1050-3-.10 Supervision, is amended by deleting the language of that rule in its entirety and substituting instead the following new language, so that as amended the rule shall read as follows:

- (1) Before being authorized to perform any x-ray procedure or operate any x-ray equipment in a physician's office, the physician shall place a copy of the person's renewal certificate in the person's personnel file to prove the person being authorized has the appropriate certification required for either or both the procedure being performed and/or the equipment being used and that such certification is current.
- (2) The employing physician(s), or a physician designated by the employing physician(s) as a substitute supervisor, shall exercise close supervision and assume full control and responsibility for the services provided by any person certified under this chapter of rules employed in the physician(s)' practice. That supervision, control and responsibility, except when it involves contrast imaging or involves sedation, does not require the physical presence of the physician(s) at all times at the site where the services are being provided. However, it does require that the physician(s) have his/her primary medical practice physically located within the boundaries of the state of Tennessee and that he/she be capable of being physically present at the site where the services are being provided within a reasonable time depending upon the type of x-ray being performed and the severity of the medical complications that may arise from that type of x-ray.

**Authority:** *T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-111, and 63-9-112.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of March, 2005.  
(03-33)





### CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning March 1, 2005 and ending March 31, 2005.

RILEY C. DARNELL  
Secretary of State