

**RULES
OF
THE TENNESSEE HEALTH FACILITIES COMMISSION**

**CHAPTER 0720-12
CERTIFICATE OF NEED PROGRAM – APPLICATION, DISCLOSURE OF
INFORMATION AND REPORTING REQUIREMENTS**

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0720-12-.01 STANDARD APPLICATION.

- (1) Application for a certificate of need shall be made on form(s) provided by the Commission. The applicant must provide all information requested in the application forms. The information which may be required in the application form(s) includes, but is not necessarily limited to, the following:
 - (a) Facility identification, including legal interests and status, operator and owners;
 - (b) Detailed project description;
 - (c) Detailed project cost data;
 - (d) Project operating costs and revenues, patient charges, and occupancy rate;
 - (e) Information on whether the proposed project will provide health care that meets appropriate quality standards;
 - (f) Information on the project's relationship to public needs and the existing health service system; and
 - (g) A copy of any signed agreement between the applicant and TennCare managed care organizations; if a signed agreement has not been executed prior to the Commission's consideration of the application, the applicant shall provide a list of any such organizations with whom the applicant is negotiating, or a statement that the applicant does not intend to contract with any TennCare managed care organization(s).
- (2) The accuracy of the information provided must be attested to by the responsible party or his agent in a notarized statement. Providing false, incorrect, misleading, or fraudulent information is grounds for revocation of the certificate of need.

Authority: T.C.A. §§ 4-5-201, et seq., 4-5-202, 68-11-1605, 68-11-1607, and 68-11-1619; 2016 Tenn. Pub. Acts Ch. 1043; and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Original rule filed August 31, 2005; effective November 14, 2005. Amendments filed October 24, 2017; effective January 22, 2018. Emergency rules filed September 28, 2021; effective through March 27, 2022. Amendments filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.02 REPORT OF BED INCREASES NOT REQUIRING A CERTIFICATE OF NEED.

- (1) Any rehabilitation facility, nursing home or hospital which is increasing the number of its licensed beds without the necessity of obtaining a certificate of need, as provided by law, shall report such activity on forms provided by the Commission.
- (2) Any rehabilitation facility, nursing home or hospital reporting such increases must provide all information requested in the form(s). Information required to be provided by the forms may include, but not be limited to, the following:
 - (a) Facility identification;
 - (b) Date of most recent prior increase in number of licensed beds not requiring a certificate of need, number of beds increased, and type of beds;
 - (c) Number of licensed beds prior to the request;
 - (d) Number of beds being increased, by licensure category; and
 - (e) Anticipated date of licensure/certification.

Authority: T.C.A. §§ 4-5-201, et seq., 4-5-202, 68-11-1605, and 68-11-1607; and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Original rule filed August 31, 2005; effective November 14, 2005. Amendments filed October 24, 2017; effective January 22, 2018. Emergency rules filed September 28, 2021; effective through March 27, 2022. Amendments filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.03 REGISTRATION OF EQUIPMENT.

- (1) Ownership of computerized axial tomographers, magnetic resonance imagers, linear accelerators, positron emission tomography, and any other piece of equipment specified by law, must be made on forms provided by the Commission within ninety (90) days of acquisition of the equipment.
- (2) The person registering such equipment must provide all information requested in the form(s) provided by Commission staff. Information which may be required by the form(s) may include, but not be limited to, the following:
 - (a) Identification of the owner of such equipment;
 - (b) The location of the equipment, including facility identification;
 - (c) Whether the acquisition is by purchase, lease, or otherwise;
 - (d) The date of delivery of the equipment; and
 - (e) The expected useful life of the equipment.
- (3) All such equipment shall be filed on an annual inventory survey developed by Commission staff. The survey shall include, but not be limited to, the identification of the equipment and utilization data according to source of payment. The survey shall be filed no later than thirty (30) days following the end of each state fiscal year. The Commission is authorized to impose a penalty not to exceed fifty dollars (\$50) for each day the filing of the survey is late.

Authority: T.C.A. §§ 4-5-202, 68-11-1605, and 68-11-1607; and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Original rule filed August 31, 2005; effective November 14, 2005. Rule was

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previously numbered 0720-12-.05 but was renumbered 0720-12-.04 with the deletion of original rule 0720-12-.03 filed October 24, 2017; effective January 22, 2018. Amendments filed October 24, 2017; effective January 22, 2018. Rule was previously numbered 0720-12-.04 but was renumbered 0720-12-.03 with the deletion of rule 0720-12-.03 filed September 28, 2021; effective through March 27, 2022. Rule was previously numbered 0720-12-.04 but was renumbered 0720-12-.03 with the deletion of rule 0720-12-.03 filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.04 ANNUAL REPORTS CONCERNING MAGNETIC RESONANCE IMAGING SERVICES.

Any person who provides magnetic resonance imaging services shall file an annual report each year with the Commission that details the mix of payors by percentage of cases for the prior calendar year for its patients, including private pay, private insurance, uncompensated care, charity care, Medicare, and Medicaid. Any person who provides magnetic resonance imaging services in a county with a population in excess of one hundred seventy-five thousand shall indicate whether magnetic resonance imaging services have been provided to a patient who is fourteen (14) years of age or younger on more than five (5) occasions during the prior calendar year if the service has been initiated without a certificate of need. These reports shall be filed on forms provided by the Commission, and shall be due as provided by law.

Authority: T.C.A. §§ 4-5-201, et seq., 68-11-1605, and 68-11-1607; and 2021 Tenn. Pub. Acts Ch. 557.

Administrative History: New rule filed October 24, 2017; effective January 22, 2018. Rule was previously numbered 0720-12-.05 but was renumbered 0720-12-.04 with the deletion of rule 0720-12-.03 filed September 28, 2021; effective through March 27, 2022. Emergency rules filed September 28, 2021; effective through March 27, 2022. Rule was previously numbered 0720-12-.05 but was renumbered 0720-12-.04 with the deletion of rule 0720-12-.03 filed December 27, 2021; effective March 27, 2022. Amendments filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.05 ANNUAL REPORT CONCERNING APPROPRIATE QUALITY MEASURES.

For every certificate of need issued after July 1, 2016, reporting shall be made to the Health Facilities Commission each year on the anniversary date of implementation of the certificate of need, on forms prescribed by the Commission. Reporting shall include an assessment of each applicable quality standard and shall include results of any surveys or disciplinary actions by state licensing agencies, payors, or CMS, which are relevant to the health care institution or service authorized by the certificate of need. The existence and results of any remedial action, including any plan of correction, shall also be provided, unless the information is considered confidential under state or federal law. Reporting may be made for the entire health care institution, relevant department, service, equipment or beds, rather than segregating the portion authorized by the particular certificate of need; reporting for the portion authorized by the particular certificate of need is preferred if the data is easily segregated and doing so would not be unduly burdensome or costly to the provider.

Authority: T.C.A. §§ 4-5-201, et seq., 68-11-1605, 68-11-1609, and 68-11-1633; and 2021 Tenn. Pub. Acts Ch. 557.

Administrative History: Original rule filed October 24, 2017; effective January 22, 2018. Rule was previously numbered 0720-12-.06 but was renumbered 0720-12-.05 with the deletion of rule 0720-12-.03 filed September 28, 2021; effective through March 27, 2022. Emergency rules filed September 28, 2021; effective through March 27, 2022. Rule was previously numbered 0720-12-.06 but was renumbered 0720-12-.05 with the deletion of rule 0720-12-.03 filed December 27, 2021; effective March 27, 2022. Amendments filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.06 REPORTS CONCERNING OUTPATIENT DIAGNOSTIC CENTERS.

For every certificate of need for the establishment of an outpatient diagnostic center, reporting shall be made to the Health Facilities Commission within two (2) years after the date of receiving a certificate of

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need as to whether the outpatient diagnostic center has become accredited by the American College of Radiology in the modalities provided by that facility.

Authority: T.C.A. § 68-11-1605 and 2016 Tenn. Pub. Acts Ch. 1043. **Administrative History:** Emergency rules filed September 28, 2021; effective through March 27, 2022. New rules filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.07 REPORTS CONCERNING ACTIVITY IN ECONOMICALLY DISTRESSED COUNTIES.

- (1) Reporting shall be made to the Health Facilities Commission on forms provided by the Commission by any person who establishes a health care institution or initiates any service specified in T.C.A. § 68-11-1607(a)(3) pursuant to the exemption provided in T.C.A. § 68-11-1607(q) within ninety (90) days of initiation of the exempted activity.
- (2) Any person who provides positron emission tomography services or magnetic resonance imaging services pursuant to T.C.A. § 68-11-1607(q) must be accredited by The Joint Commission or the American College of Radiology in the modalities provided by that person and submit proof of the accreditation to the Commission within two (2) years of the initiation of service.

Authority: T.C.A. § 68-11-1605 and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Emergency rules filed September 28, 2021; effective through March 27, 2022. New rules filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.08 REPORTS CONCERNING ACCREDITATION OF HOME HEALTH AGENCIES OPERATING PURSUANT TO CERTIFICATE OF NEED EXEMPTIONS.

Reporting shall be made to the Health Facilities Commission within two (2) years of the licensure of the home health agency, on forms prescribed by the Commission, by each home health agency established pursuant to a certificate of need exemption in T.C.A. § 68-11-1607(r) or T.C.A. § 68-11-1607(s). Reporting shall include whether the home health agency has been accredited, and if so, by which accrediting organization.

Authority: T.C.A. § 68-11-1605 and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Emergency rules filed September 28, 2021; effective through March 27, 2022. New rules filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.

0720-12-.09 REPORTS CONCERNING ACCREDITATION OF POSITRON EMISSION TOMOGRAPHY PROVIDERS OPERATING PURSUANT TO CERTIFICATE OF NEED EXEMPTIONS.

A provider of positron emission tomography established without a certificate of need pursuant to T.C.A. § 68-11-1607(u) must become accredited by the American College of Radiology and provide to the Commission proof of the accreditation within two (2) years of the date of licensure.

Authority: T.C.A. § 68-11-1605 and 2021 Tenn. Pub. Acts Ch. 557. **Administrative History:** Emergency rules filed September 28, 2021; effective through March 27, 2022. New rules filed December 27, 2021; effective March 27, 2022. Administrative changes made pursuant to Public Chapter 1119 of 2022 effective July 1, 2022.