

**RULES
OF
THE TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND SUBSTANCE ABUSE SERVICES
DIVISION OF MENTAL HEALTH SERVICES**

**CHAPTER 0940-03-03
FORENSICS**

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0940-03-03-.01 SCOPE.

- (1) These rules specify certification criteria for forensic evaluators who are employees of the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS); or, who are under contract with TDMHSAS through an agency or as a private practitioner.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment filed November 22, 1991; effective January 6, 1992. Amendment filed September 25, 1995; effective December 9, 1995. Repeal and new rule filed March 11, 2010; effective June 9, 2010. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012.

0940-03-03-.02 FORENSIC CERTIFICATION.

- (1) Forensic evaluator certification is awarded at the discretion of TDMHSAS to a professional who meets education and licensure requirements and who satisfactorily completes forensic training offered by TDMHSAS.
- (2) Forensic evaluator certification is valid for two full fiscal years and shall be renewed by attending a TDMHSAS forensic recertification training session. A forensic training session approved by TDMHSAS may be substituted for the recertification training.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repeal and new rule filed March 11, 2010; effective June 9, 2010. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012.

0940-03-03-.03 EVALUATION OF AND EXPERT TESTIMONY ON COMPETENCE TO STAND TRIAL UNDER T.C.A. TITLE 33, CHAPTER 7, PART 3.

- (1) Persons performing mental health evaluations and/or providing expert witness testimony to determine competence to stand trial under T.C.A. Title 33, Chapter 7, Part 3 shall:
 - (a) Meet the qualification requirements specified in Rule 0940-03-03-.03(2)(a)-(h);
 - (b) Be certified as a forensic evaluator as described in Rule 0940-03-03-.02; and

(Rule 0940-03-03-.03, continued)

- (c) Participate in the assessment of the defendant.
- (2) A person with any of the following qualifications may seek certification to determine competence to stand trial:
 - (a) A physician licensed in the State of Tennessee with expertise in psychiatry as determined by training, education, or experience;
 - (b) A psychologist licensed in Tennessee with health service provider designation;
 - (c) A psychological examiner licensed in Tennessee with health service provider designation;
 - (d) A master's social worker licensed in Tennessee under the supervision of a clinical social worker licensed in Tennessee;
 - (e) A clinical social worker licensed in Tennessee;
 - (f) A nurse clinical specialist licensed to practice nursing in Tennessee who has earned a master's degree in psychiatric nursing;
 - (g) A professional counselor licensed in Tennessee;
 - (h) A person who has received a master's degree or its equivalent, in a human service or behavioral science related field, and who has completed at least one year of practical forensic experience under the supervision of a certified forensic evaluator subject to review and approval by the Director of the Office of Forensic Services of TDMHSAS.
- (3) All notices of recommendations to the court for an inpatient evaluation under T.C.A. § 33-7-301(a) shall be signed by either a physician licensed in the State of Tennessee with expertise in psychiatry as determined by training, education, or experience or a psychologist licensed in Tennessee with health service provider designation. The physician or psychologist signing the notice of recommendations to the court shall have participated in the assessment of the defendant.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed March 11, 2010; effective June 9, 2010. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012. Amendments filed January 30, 2023; effective April 30, 2023.

0940-03-03-.04 EVALUATION OF AND EXPERT TESTIMONY ON MENTAL CONDITION AT THE TIME OF THE OFFENSE UNDER TITLE 33, CHAPTER 7, PART 3.

- (1) Persons performing mental health evaluations and/or providing expert witness testimony regarding mental condition at the time of the offense under Title 33, Chapter 7, Part 3 shall:
 - (a) Meet the qualification requirements specified in Rule 0940-03-03-.04(2);
 - (b) Be certified as a forensic evaluator as described in Rule 0940-03-03-.02; and
 - (c) Participate in the assessment of the defendant.
- (2) Mental health evaluations and expert testimony regarding mental condition at the time of the offense may be provided only by persons who meet the following minimum qualifications:

(Rule 0940-03-03-.04, continued)

- (a) A physician licensed in Tennessee with expertise in psychiatry as determined by training, education or experience; or
- (b) A psychologist licensed in Tennessee with health service provider designation.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed March 11, 2010; effective June 9, 2010. Amendments filed January 30, 2023; effective April 30, 2023.

0940-03-03-.05 REPEALED.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984. Repeal filed March 11, 2010; effective June 9, 2010.

0940-03-03-.06 REPEALED.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repeal filed March 11, 2010; effective June 9, 2010.

0940-03-03-.07 REPEALED.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984. Amendment filed November 22, 1991; effective January 6, 1992. Amendment filed September 25, 1995; effective December 9, 1995. Repeal filed March 11, 2010; effective June 9, 2010.

0940-03-03-.08 REPEALED.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984. Repeal filed March 11, 2010; effective June 9, 2010.

0940-03-03-.09 REPEALED.

Authority: T.C.A. §§ 4-4-103, 33-1-201, 33-1-202, 33-1-203, 33-1-204, 33-1-302, 33-1-305, and Title 33, Chapter 7. **Administrative History:** Original rule filed October 17, 1978; effective December 1, 1978. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 11, 1984; effective August 10, 1984. Amendment filed November 22, 1991; effective January 6, 1992. Amendment filed September 25, 1995; effective December 9, 1995. Repeal filed March 11, 2010; effective June 9, 2010.