G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Real Estate Commission
DIVISION:	Regulatory Boards
SUBJECT:	Supervision of Affiliate Brokers
STATUTORY AUTHORITY:	This rule change is not mandated by federal or state law or regulation.
EFFECTIVE DATES:	April 24, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This proposed rule eliminates the requirement that any licensee who is not a principal broker or a property manager must live within 50 miles by straight line calculation from the firm with which they are affiliated.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

   This amendment would directly benefit the small businesses that are licensed as real estate firms, as affiliate brokers, brokers (working with firms as independent contractors), and time-share salespersons in the state of Tennessee by allowing licensees to affiliate with licensed real estate firms that are located more than 50 miles from the licensee's residence. There are approximately 38,000 small business licensees (firms or independent contractors) that would potentially benefit from the removal of this requirement.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

   There are no projected administrative costs as a result of these amendments.

3. A statement of the probable effect on impacted small businesses and consumers;

   The probable effect on impacted small businesses that are licensed as real estate firms, affiliate brokers, brokers and time-share salespersons (working with firms as independent contractors) is that these licensees will be able to affiliate with the real estate firm of their choosing without being restricted by the distance from their home to the firm. There is no probable effect of this rule on consumers.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

   The Commission knows of no other alternative method to achieve the goals exhibited by these rules.

5. A comparison of the proposed rule with any federal or state counterparts;

   The Commission does not know of any other state or federal law that regulates the distance allowed between a licensee's residence and the firm with which they are affiliated.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

   An exemption for small businesses to these rules would not be beneficial, as this rule removes a current restriction for small businesses that are licensed as real estate firms, affiliate brokers, brokers, and timeshare salespersons (working with firms as independent contractors).

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Real Estate Commission foresees no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule eliminates the requirement that any licensee who is not a principal broker or a property manager must live within 50 miles by straight line calculation from the firm with which they are affiliated.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rule change is not mandated by federal or state law or regulation.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed real estate firms and individuals who hold licenses as affiliate brokers, brokers or time-share salespersons will potentially be affected by this rule. It is anticipated that these individuals will urge adoption of the rule because it removes a requirement which restricts the distance allowed between the licensee's residence and the firm with which they are affiliated. Licensees will potentially have more options regarding where they can place their license.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known attorney general opinions or judicial rulings directly related to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There are no probable increases or decreases in state and local government revenues and expenditures resulting from the promulgation of this rule.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Malcolm Young, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 4th Floor
Nashville, TN 37243
615-741-3321

Sarah M. Mathews, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
615-741-3072

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Malcolm Young, Executive Director, Real Estate Commission Sarah M. Mathews, Assistant General Counsel

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Malcolm Young, Executive Director 500 James Robertson Parkway Davy Crockett Tower, 4th Floor Nashville, TN 37243 615-741-3321 Malcolm.young@tn.gov Sarah M. Mathews, Assistant General Counsel 500 James Robertson Parkway Davy Crockett Tower, 5th Floor Nashville, TN 37243 615-741-3072 Sarah.Mathews@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 01-24-17
Rule ID(s): 6411
File Date: 1/24/17
Effective Date: 4/24/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Real Estate Commission
Division:	Regulatory Boards
Contact Person:	Sarah M. Mathews
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-532-6303
Email:	Sarah.Mathews@tn.gov

Revision Type (check all that apply):
x Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1260-02	Rules of Conduct
Rule Number	**Rule Title**
.01	Supervision of Affiliate Brokers

Redline – 2016 Proposed Rules
Tennessee Real Estate Commission

Chapter 1260-02
Rules of Conduct
Amendments

Rule 1260-02-.01 is amended by deleting paragraph (2) and renumbering current paragraph (3) appropriately so that, as amended, the rule shall read:

(1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.

~~(2) No principal broker shall engage a licensee (other than as a property manager) who lives more than fifty (50) miles by a straight line calculation from the firm office, unless the principal broker demonstrates in writing to the Tennessee Real Estate Commission's satisfaction that the distance involved is not unreasonable and that adequate supervision can be provided. For purposes of this rule, a property manager is defined as a licensee who engages exclusively in leasing and otherwise managing rental properties.~~

(~~3~~2) A licensee may be engaged only by a principal broker who is:

(a) engaged primarily in the real estate business; and

(b) accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15).

Rules of Tennessee Real Estate Commission
Chapter 1260-02 Rules of Conduct
Rule 1260-02-.01 Supervision of Affiliate Brokers

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
John Griess	x				
Austin McMullen				x	
Diane Hills	x				
Marcia Franks	x				
Bobby Wood		x			
Rick Douglass	x				
Fontaine Taylor	x				
Gary Blume	x				
Johnny Horne	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Real Estate Commission on 10/06/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 01/4/2017

Signature: Sarah M. Mathews

Name of Officer: SARAH M. MATHEWS

Title of Officer: ASSISTANT GENERAL COUNSEL

VANESSA HUNTSMAN STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY MY COMMISSION EXPIRES 11-21-2017

Subscribed and sworn to before me on: 01/04/2017

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

1/12/2017
Date

Department of State Use Only

Rules of Tennessee Real Estate Commission
Chapter 1260-02 Rules of Conduct
Rule 1260-02-.01 Supervision of Affiliate Brokers

Filed with the Department of State on: 1/24/17

Effective on: 4/24/17

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Tennessee Promise Scholarship Program
STATUTORY AUTHORITY:	Tennessee Code Annotated Section 49-4-708 authorizes the Tennessee Student Assistance Corporation (TSAC) to administer the TN Promise Scholarship Program, which provides last-dollar scholarship with individual mentoring opportunities for all graduating high school seniors to attend eligible postsecondary institutions. Section 49-4-204 authorizes TSAC to promulgate rules relative to the program. 2015 Tenn. Pub. Acts Ch. 186 provides rulemaking authority for the revisions necessitated by the enactment of the legislation.
EFFECTIVE DATES:	February 13, 2017 through August 12, 2017
FISCAL IMPACT:	There should be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule. The Tennessee Promise Scholarship shall be funded with the Tennessee Promise Scholarship endowment funds.
STAFF RULE ABSTRACT:	2014 Tenn. Pub. Acts Ch. 900 implemented the Tennessee Promise Scholarship Act of 2014, providing an opportunity for all graduating high school seniors, regardless of socioeconomic status or academic performance, to obtain a certificate, diploma, or associate degree, free of tuition and fees. This last-dollar scholarship bridges the funding gap for a student after all other financial aid is applied; provides individual guidance to each participant through a statewide network of volunteer mentors; and engages students by requiring them to perform a minimum of eight hours of community service for each semester the scholarship is received.

This emergency rule will allow students who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Promise Scholarship. After consulting with postsecondary financial aid offices across the state, TSAC has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the summer community service deadline from May 1 to April 1, which will better align with the beginning of TCAT summer terms, and remove the mandatory requirement from the first student-partnering organization meeting. Provisions that will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The rules for the Tennessee Promise Scholarship Program Chapter 1640-01-26, as proposed, have no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

2014 Tenn. Pub. Acts Ch. 900 implemented the Tennessee Promise Scholarship Act of 2014, providing an opportunity for all graduating high school seniors, regardless of socioeconomic status or academic performance, to obtain a certificate, diploma, or associate degree, free of tuition and fees. This last-dollar scholarship bridges the funding gap for a student after all other financial aid is applied; provides individual guidance to each participant through a statewide network of volunteer mentors; and engages the student by requiring the student to perform a minimum of eight hours of community service for each semester the scholarship is received.

The proposed rules will allow students who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Promise scholarship. After consulting with postsecondary financial aid offices across the state, TSAC has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the summer community service deadline from May 1 to April 1, which will better align with the beginning of TCAT summer terms, and remove the mandatory requirement from the first student-partnering organization meeting. Provisions which will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 49-4-708 authorizes Tennessee Student Assistance Corporation (TSAC) to administer the TN Promise Scholarship Program, which provides last-dollar scholarship with individual mentoring opportunities for all graduating high school seniors to attend eligible postsecondary institutions, and Tenn. Code Ann. § 49-4-204 authorizes TSAC to promulgate rules and regulations relative to such program.

2015 Tenn. Pub. Acts Ch. 186 provides rulemaking authority for the revisions necessitated by the enactment of the legislation.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

TSAC, the Tennessee Higher Education Commission, Tennessee Board of Regents, Tennessee Colleges of Applied Technology, partnering organizations, volunteer mentors, and eligible high school and postsecondary students are most directly affected by these proposed rules.

These organizations and individuals urge adoption of these rules.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There shall be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule. The Tennessee Promise Scholarship shall be funded with the Tennessee Promise Scholarship endowment funds.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to date.

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Sequence Number: 02-10-17
Rule ID(s): 6448
File Date (effective date): 02/13/17
End Effective Date: 8/12/17

Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	Peter.Abernathy@tn.gov

Rule Type:
X Emergency Rule

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Statement of Necessity:

Pursuant to T.C.A. 4-5-208(a)(5), TSAC seeks approval of emergency rules for the Tennessee Promise Scholarship program pursuant to revisions made to the program enacted by 2015 Tenn. Pub. Acts Ch. 186.

The TN Promise Scholarship Program provides an opportunity for all graduating high school seniors, regardless of socioeconomic status or academic performance, to obtain a certificate, diploma, or associate degree, free of tuition and fees. This last-dollar scholarship bridges the funding gap for a student after all other financial aid is applied; provides individual guidance to each participant through a statewide network of volunteer mentors; and engages the student by requiring the student to perform a minimum of eight hours of community service for each semester the scholarship is received.

Approval of these emergency rules will allow students in the current academic year who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Promise scholarship. After consulting with postsecondary financial aid offices across the state, TSAC has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the summer community service deadline from May 1 to April 1, which will better align with the beginning of TCAT summer terms, provide additional time for institutions to notify students of ineligibility, and remove the mandatory requirement from the first student-partnering organization meeting. Provisions which will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

Chapter Number	Chapter Title
1640-01-26	Tennessee Promise Scholarship Program
Rule Number	**Rule Title**
1640-01-26-.03	Application Process
1640-01-26-.04	Eligibility – Tennessee Promise Scholarship Program
1640-01-26-.07	Community Service Program Requirements
1640-01-26-.09	Partnering Organization Requirements
1640-01-26-.17	Transfer Students

Authority**: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History: *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendment filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.*

1640-01-26-.03 APPLICATION PROCESS.

(1) Students participating in the Tennessee Promise Scholarship program shall file a FAFSA, or renewal FAFSA, in each year of program participation. The FAFSA must be submitted by mail or electronically as directed in the FAFSA instructions.

(2) Students enrolled in a community college, public four-year postsecondary institution, or private institution shall file the FAFSA or renewal FAFSA according to ~~the following deadlines:~~ a date determined by TSAC for fall enrollment, or no later than November 1 for spring and summer enrollment.

~~(a) No later than February 15 for fall enrollment, or~~

~~(b) No later than November 1 for spring and summer enrollment.~~

(3) Students enrolled in a TCAT shall file the FAFSA or renewal FAFSA according to ~~the following deadlines:~~ a date determined by TSAC for summer and fall enrollment, or no later than November 1 for spring enrollment.

~~(a) No later than February 15 for summer and fall enrollment, or~~

~~(b) No later than November 1 for spring enrollment.~~

(4) Students are required to complete the Tennessee Promise Scholarship award application for the initial year of enrollment no later than November 1 of their senior year of high school. ~~For each successive year of participation students shall submit a renewal application no later than July 1 prior to the successive academic year giving notice to TSAC of their intent to participate in the Tennessee Promise Scholarship program.~~ If ~~either~~ the deadline occurs on a weekend or ~~state~~ holiday, then the application deadline will be the next business day.

Authority**: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History: *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.*

1640-01-26-.04 ELIGIBILITY – TENNESSEE PROMISE SCHOLARSHIP PROGRAM.

(1) To be eligible to receive a Tennessee Promise Scholarship a student shall:

(Rule 1640-01-26-.04, continued)

(a) Be a Tennessee resident;

(b) Graduate from an eligible high school, graduate high school as a dependent child of a military parent as outlined in T.C.A. § 49-4-926, complete high school as a home school student, or obtain a GED or HiSET diploma, provided that the student obtains a GED or HiSET diploma prior to the student reaching nineteen (19) years of age;

(c) Attend full time in an eligible postsecondary institution in the fall term immediately following graduation from an eligible high school or home school, or attainment of the GED or HiSET diploma; except that a student enrolling in a certificate or diploma program at a TCAT may enroll in the summer prior to the fall term;

(d) Maintain continuous enrollment as a full-time student at an eligible postsecondary institution unless granted a medical or personal leave of absence;

(e) Maintain a minimum cumulative grade point average of 2.0, as determined by the eligible postsecondary institution, at the end of each academic year if enrolled in an associate degree program, or maintain satisfactory academic progress as determined by the TCAT;

(f) Comply with United States Selective Service System requirements for registration, if such requirements are applicable to the student;

(g) Be in compliance with federal drug-free rules and laws for receiving financial assistance;

(h) Not be in default on a federal Title IV educational loan or Tennessee educational loan;

(i) Not owe a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program;

(j) Not be incarcerated;

(k) Not have earned an associate degree prior to enrolling in the initial academic term following graduation from a high school or home school program;

(l) Prior to initial fall enrollment in a postsecondary institution, attend one ~~mandatory~~ meeting related to financial aid and FAFSA completion, and the college application process; and a second mandatory meeting related to college orientation. Participants may, but are not required to, attend additional meetings as offered by a Partnering Organization;

(m) Complete eight (8) hours of community service for each semester while participating in the Tennessee Promise Scholarship program;

(n) Submit all necessary documentation ~~by August 1~~ to allow the postsecondary institution to complete FAFSA verification~~ if enrolled at a two-year or four-year eligible institution or by October 1 if enrolled at a TCAT.~~; FAFSA verification shall be completed regardless of eligibility for federal or state grants~~.~~; ~~After performing an initial review of the verification materials submitted by August 1, additional documentation may be requested by the postsecondary institution to complete initial FAFSA verification. This shall not render the student ineligible for Tennessee Promise if the additional necessary documents are provided by December 1. If either deadline occurs on a weekend or state holiday, then the application deadline will be the next business day;~~ and

(Rule 1640-01-26-.06, continued)

circumstances beyond the student's control where attendance by the student creates a substantial hardship. In the event an institution denies a student's request for a medical or personal leave of absence, the student may appeal the decision in accordance with these rules.

(2) A student granted a medical or personal leave of absence shall enroll full time in an eligible postsecondary institution in the first semester following the end of the leave of absence and shall retain the Tennessee Promise Scholarship until a terminating event occurs. A leave of absence of six (6) months or less shall not count against the five semester limit at an eligible postsecondary institution, and a leave of absence may extend beyond six (6) months for military, religious, or other extraordinary circumstances as described in this rule.

Authority**: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History: *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.*

1640-01-26-.07 COMMUNITY SERVICE PROGRAM REQUIREMENTS.

(1) A student participating in the Tennessee Promise Scholarship program shall perform and report eight (8) hours of community service for each semester the scholarship is received. Service shall be performed prior to the beginning of each academic semester, including the initial fall semester, in which the Promise Scholarship is received according to the following deadlines:

(a) August 1 for students attending the fall academic term; except that beginning in the 2017-18 academic year and thereafter, ~~entering freshmen~~ all students shall perform and report community service hours by July 1 for the fall academic term.

(b) December 1 for students attending the spring academic term.

(c) April 1 ~~May 1~~ for students attending the summer academic term.

(2) A student who is granted a leave of absence may complete the community service during the leave of absence or in the first academic term following the period for which the leave of absence was granted. Community service performed in the first academic term following the leave of absence shall be in addition to any other community service required in the same academic term.

(3) Upon completion of the community service, each student shall verify to the Partnering Organization a description of service performed, the date(s) the service was performed, the total hours of service provided, and the name and address of the organization for which the service was provided.

(4) Community Service shall not include:

(a) Service performed prior to the Tennessee Promise Scholarship application deadline preceding the initial academic term;

(b) Service resulting in payment or remuneration of any kind; or

(c) Service that directly benefits family members.

(5) Community service may be performed with or under the direction of a faith-based organization, but shall not include religious persuasion or proselytizing.

(Rule 1640-01-26-.07, continued)

(6) Community service in excess of eight (8) hours performed in any semester shall not be carried over into subsequent semesters. Unless the student is on an approved leave of absence, failure to complete the eight (8) hours of community service prior to an academic semester will result in the immediate termination of eligibility for the Tennessee Promise Scholarship. Community service performed during an approved leave of absence shall count towards fulfillment of the community service requirement in the first semester following the leave of absence.

(7) A student who knowingly provides false verification of community service shall be ineligible to receive additional benefits under the Tennessee Promise Scholarship program.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016. Amendments filed February 22, 2016; effective May 22, 2016.*

1640-01-26-.08 SELECTION OF PARTNERING ORGANIZATIONS.

(1) To participate in the Tennessee Promise Scholarship program, a Partnering Organization shall be recommended by the mayor or executive of each county in which the Partnering Organization participates and approved by the Board of Directors.

(2) An approved Partnering Organization may continue to serve in such capacity unless it is no longer recommended by a county mayor or executive or approved by the Board of Directors. Final approval to serve as a Partnering Organization shall be given at the discretion of the Board of Directors and based on the Partnering Organization's satisfactory performance and compliance with these rules.

(3) A negative recommendation by one county mayor or executive shall not automatically disqualify the Partnering Organization from participating in other counties but will be considered in the Board of Directors' evaluation of the Partnering Organization's continued participation in the Program.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.*

1640-01-26-.09 PARTNERING ORGANIZATION REQUIREMENTS.

(1) Partnering Organizations that participate in the Tennessee Promise Scholarship program shall meet the following requirements:

(a) Be established as a not-for-profit organization, except that a postsecondary institution that receives funding under the Tennessee Promise Scholarship program shall not be permitted to participate as a partnering organization.

(b) Operate as a college access and success program serving Tennessee residents at an eligible postsecondary institution.

(c) Demonstrate annually to TSAC that funding exists within the Partnering Organization's budget to provide all services under the Tennessee Promise Scholarship program for a minimum of one (1) year. No funds under this program shall be provided for the direct or indirect benefit of a Partnering Organization.

(Rule 1640-01-26-.09, continued)

(d) Adhere to rules promulgated by TSAC for the administration of this program.

(e) Provide a mentoring program with a ratio of one (1) volunteer mentor to no more than ten (10) eligible student applications. This ratio shall apply to eligible student applications and may be reduced in proportion to the number of students who drop from participation in the program.

The minimum age and ratio requirements shall not apply to full- or part-time paid mentors or counselors that work directly with students.

(f) Select volunteer mentors prior to December 1 for the following academic year and provide one (1) mandatory training meeting for all paid and volunteer mentors prior to January 31. This meeting may be offered on multiple dates prior to the January 31 deadline. This meeting shall cover at least the following topics:

1. Program overview,
2. Appropriate mentor-student relationships,
3. Financial aid,
4. FAFSA completion,
5. College applications and admissions, and
6. Community service requirements.

(g) Provide one (1) ~~mandatory~~ meeting for all Tennessee Promise Scholarship program participants prior to March 1 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the March 1 deadline, and shall provide training on the following topics:

1. An overview of the Tennessee Promise Scholarship program,
2. Appropriate relationships with mentors,
3. Financial aid opportunities,
4. FAFSA completion, and
5. The college application process.

(h) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants after March 1 and prior to May 31 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the May 31 deadline and shall provide training on topics related to college orientation, making the transition from high school to college, and community service requirements.

(i) Where a student cannot attend either mandatory meeting due to required attendance at a school-sponsored activity, required attendance at a religious-based activity, documented illness of the student, or other extenuating circumstances, the Partnering Organization shall provide opportunities for the student to receive the training prior to the March 1 or May 31 deadline, or as soon thereafter as practicable.

(Rule 1640-01-26-.09, continued)

(j) Provide a minimum of one (1) mentor contact monthly with each assigned Tennessee Promise Scholarship program participant beginning February 1 of the senior year of high school. Contact shall be maintained throughout the student's participation in the Program.

(k) Organize a local advisory council to serve as an advocate for the Program. The advisory council shall be comprised of a minimum of five (5) members, with at least one (1) member representative from each the local education agency, the county mayor's or executive's office, and a local postsecondary institution. Organizations that have been in existence for a minimum of three (3) years may use existing boards or boards of trustees as the local advisory council if the board or board of trustees is substantially similar to the requirements of this subsection.

(l) Obtain a certified background check on all mentors prior to service as a mentor. A mentor shall not be eligible to participate in the Tennessee Promise Scholarship program if convicted of any felony or offense listed at T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, and 40-35-501(i)(2). For purposes of this section, "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.

(m) Submit to audits on a periodic basis as determined by TSAC.

(n) Enter into a memorandum of understanding with TSAC regarding program requirements and Partnering Organization obligations and provide requested information to TSAC as required in the memorandum of understanding.

(o) Provide electronic notification to TSAC when Tennessee Promise participants have completed their mandatory meetings and community service requirements. Reporting of community service performed in the previous academic term shall be provided to TSAC for each student no later than:

1. August 15 for students attending the fall academic term.

2. December 15 for students attending the spring academic term.

3. May 15 for students attending the summer academic term.

(p) Provide performance metrics as outlined in the memorandum of understanding entered into with TSAC.

(q) Obtain an insurance policy that, at a minimum, limits liability of the Partnering Organization against physical and sexual abuse or misconduct directed toward participants of the Program by its officers, directors, employees, and volunteers.

Authority: *T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, 40-35-501, 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015.Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.*

1640-01-26-.10 PARTNERING ORGANIZATIONS – SERVICE IN COUNTIES.

(1) A Partnering Organization that agrees to provide Tennessee Promise Scholarship program services in a county shall make the program available to all eligible high school, home school, and GED/HiSET students in that county. The Partnering Organization shall continue

(Rule 1640-01-26-.16, continued)

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.*

1640-01-26-.17 TRANSFER STUDENTS.

(1) A student who meets all academic and non-academic requirements of the Tennessee Promise Scholarship may transfer from one eligible postsecondary institution to another eligible postsecondary institution and maintain the scholarship until reaching a terminating event as outlined in T.C.A. § 49-4-708~~, provided the student is able to complete the diploma or associate degree in the amount of time remaining before reaching a terminating event as outlined in T.C.A § 49-4-708~~.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.*

1640-01-26-.18 APPEAL AND EXCEPTION PROCESS.

(1) Each eligible postsecondary institution shall use their existing Institutional Review Panel (IRP) for purposes of reviewing and rendering decisions regarding appeals for the Tennessee Promise Scholarship program. The IRP shall use the same procedures and timelines as those that currently exist for the review of Tennessee Education Lottery Scholarship (TELS) appeals as outlined in Tenn. Comp. R. & Reg. 1640-01-19.

(2) TSAC shall use the existing TELS Appeals Panel to consider appeals and render decisions for those students who appeal a decision made by the IRP. The same guidelines shall exist for appeals of the Tennessee Promise Scholarship program as those that are currently in place for TELS as outlined in Tenn. Comp. R & Reg.1640-01-19.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-924.* ***Administrative History:*** *Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.*

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Stephen Smith	X			
Mr. Mike Krause	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr., by Ms. Shiri Anderson	X			
Comptroller Justin P. Wilson				X
Commissioner Larry Martin, by Mr. Greg Turner	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera	X			
Chancellor David Gregory, by Dr. Heidi Leming	X			
Dr. Joe Dipietro, by Dr. Katie High	X			
Dr. J. Gary Adcox	X			
Ms. Karen Hauser	X			
Ms. Keri McInnis	X			
Dr. LaSimba Gray, Jr.				X
Mr. Tom Hughes				X
Mr. Randy Lowry				X
Mr. Garrett Wilson	X			
Ms. Sharon Hayes	X			

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: February 2, 2017

Signature:

Name of Officer: Mike Krause

Title of Officer: Executive Director

CORSINA DICKSON - WILLEY
STATE OF TENNESSEE
08/04/2020
DAVIDSON COUNTY

Subscribed and sworn to before me on: 02-02-17

Notary Public Signature:

My commission expires on: 08-04-20

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

2/10/2017
Date

Department of State Use Only

Filed with the Department of State on: 02/13/17

Effective for: 180 *days

Effective through: 8/12/17

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

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Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Ned McWherter Scholars
STATUTORY AUTHORITY:	T.C.A. § 49-4-703 authorizes the Tennessee Student Assistance Corporation (TSAC) to administer the Ned McWherter Scholars Program. T.C.A. § 49-4-204 authorizes the Tennessee Student Assistance Corporation (TSAC) to promulgate rules to effectuate the purposes of the statute.
EFFECTIVE DATES:	May 14, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The Ned McWherter Scholars Program was created to provide an incentive for academically superior Tennessee students to attend a postsecondary education institution in Tennessee, and is payable for up to four academic years for recipients who continue to be qualified. The amount paid by TSAC from the program's endowment and appropriations must be matched on a dollar-for-dollar basis for each awardee by the respective institution the awardee attends. The revisions to the rules include allowing the student to enroll within sixteen months from high school graduation; clarifies postsecdonary accreditation standards; prohibits a participating postsecondary institution from requiring recipients from performing any form of work or service as a condition to receiving the institutional match; changes the renewal postsecondary grade point average (GPA) from 3.2 to 3.0 and provides the student an opportunity to regain the award; revises the appeal process; and provides for other technical and clarifying changes throughout the rules.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

Pursuant to T.C.A. § 4-5-202, the Tennessee Student Assistance Corporation (TSAC) intends to file Chapter 1640-01-09, Ned McWherter Scholars, as proposed rules, in lieu of a rulemaking hearing. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State.

The Ned McWherter Scholars Program is intended to provide an incentive for academically superior Tennessee students to attend a postsecondary education institution in Tennessee, and is payable for up to four academic years for recipients who continue to be qualified. The amount paid by TSAC from the program's endowment and appropriations must be matched on a dollar-for-dollar basis for each awardee by the respective institution the awardee attends.

The revisions to the rules include allowing the student to enroll within sixteen months from high school graduation; clarifies postsecondary accreditation standards; prohibits a participating postsecondary institution from requiring recipients from performing any form of work or service as a condition to receiving the institutional match; changes the renewal postsecondary grade point average (GPA) from 3.2 to 3.0 and provides the student an opportunity to regain the award; revises the appeal process, and provide other technical and clarifying changes throughout the rules.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

   The proposed rules will not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rules:

   The proposed rules were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

   The proposed rules were drafted to facilitate administration of the program for eligible

postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

   TSAC worked diligently with the postsecondary financial aid community, the Tennessee Higher Education Commission and the colleges and universities that are most directly affected by these proposed rules to ensure that proposed compliance and reporting requirements can be practically applied by eligible institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

   The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

   TSAC expects the eligible institutions engaged in the administration of the Ned McWherter Scholars Program to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

   The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rules; the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; a statement of the probable effect on impacted small businesses and consumers; a description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

   Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no impact on small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

   There are no significant reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

   Not applicable.

4. Less burdensome, intrusive, or costly alternative methods:

As these proposed rules do not significantly impact the cost to the postsecondary institutions, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

   There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

   There will be no exemptions created by these proposed rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The rules for the Ned McWherter Scholars Program Chapter 1640-01-27, as proposed, have no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Ned McWherter Scholars Program was created to provide an incentive for academically superior Tennessee students to attend a postsecondary education institution in Tennessee, and is payable for up to four academic years for recipients who continue to be qualified. The amount paid by TSAC from the program's endowment and appropriations must be matched on a dollar-for-dollar basis for each awardee by the respective institution the awardee attends.

The revisions to the rules include allowing the student to enroll within sixteen months from high school graduation; clarifies postsecondary accreditation standards; prohibits a participating postsecondary institution from requiring recipients from performing any form of work or service as a condition to receiving the institutional match; changes the renewal postsecondary grade point average (GPA) from 3.2 to 3.0 and provides the student an opportunity to regain the award; revises the appeal process, and provides for other technical and clarifying changes throughout the rules.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. 49-4-703 authorizes the Tennessee Student Assistance Corporation (TSAC) to administer the Ned McWherter Scholars Program.

T.C.A. § 49-4-204 authorizes the Tennessee Student Assistance Corporation (TSAC) to promulgate rules to effectuate the purposes of the statute.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

TSAC, the Tennessee Higher Education Commission (THEC), the University of Tennessee System, the Board of Regents System, the Tennessee Independent Colleges and Universities Association, and the Tennessee Association of Student Financial Aid Administrators are most directly affected by these proposed rules.

These organizations urge the adoption of these rules.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There shall be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of these rules.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Peter Abernathy
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Suite 1510, Parkway Towers
404 James Robertson Parkway
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to-date.

Department of State Division of Publications 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower Nashville, TN 37243 Phone: 615-741-2650 Email: publications.information@tn.gov	For Department of State Use Only Sequence Number: 02-12-17 Rule ID(s): 6450 File Date: 2/13/17 Effective Date: 5/14/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	Peter.Abernathy@tn.gov

Revision Type (check all that apply):

X Amendment
___ New
___ Repeal

Chapter Number	Chapter Title
1640-01-09	Ned McWherter Scholars
Rule Number	**Rule Title**
1640-01-09-.01	Summary and Purpose
1640-01-09-.02	Minimum Qualifications of Applicants
1640-01-09-.03	Qualifying Programs and Institutions of Higher Education
1640-01-09-.04	Scholarship Amount, Length, and Intervals of Payments
1640-01-09-.05	Application and Initial Award Procedures
1640-01-09-.06	Renewal Scholarships
1640-01-09-.07	Appeals Procedures

RULES OF
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-09
NED MCWHERTER SCHOLARS PROGRAM

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1640-01-09-.06 Renewal Scholarships
1640-01-09-.07 Appeals Procedures
1640-01-09-.07 Appeals Procedures

1640-01-09-.01 SUMMARY AND PURPOSE.

(1) The State of Tennessee has created an Academic Scholars Program to be administered by the Tennessee Student Assistance Corporation (TSAC) for qualified applicants to attend postsecondary institutions in Tennessee in pursuit of an associate or baccalaureate degree. The scholarship will be awarded to assist in the cost of required tuition, fees, equipment, textbooks, supplies, and if applicable, room and board at the institution. ~~The award initially paid $4,000$6,000 an academic year.~~ The amount of the award shall be determined by the TSAC Board of Directors based on available State funding. The amount paid by ~~the State~~TSAC from the program's endowment and appropriations must be matched on a dollar-for-dollar basis for each awardee by the respective institution the awardee attends. The scholarship is intended to provide an incentive for academically superior Tennessee students to attend a postsecondary education institution in Tennessee, and is payable for up to four academic years for recipients who continue to be qualified.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986. Amendment filed May 7, 1991; effective August 28, 1991.*

1640-01-09-.02 MINIMUM QUALIFICATIONS OF APPLICANTS.

(1) To be eligible, an applicant must:

(a) Have earned a minimum cumulative grade point average in high school, at the end of the seventh semester, of at least 3.5 on a 4.0 scale. ~~(~~The seventh semester is usually the semester before the semester in which one would graduate.~~)~~

(b) Have attained a composite score on the ACT or the SAT which places the student in the top ~~5%~~five percent of test-takers nationally, such minimum score to be estimated based upon previous year's data and announced annually.

(c) Have graduated with a regular diploma ~~no more than one year prior to the time of his/her first application for an award,~~ from a high school in Tennessee ~~which~~ that is approved by the Tennessee State Department of Education, is accredited by the Southern Association of Colleges and Schools, or belongs to an agency whose accreditation process is approved by the State Board of Education. Exceptions to this requirement for graduates of a "home school" as defined in T.C.A. § 49-6-3050 may be granted by the Executive Director of ~~the Tennessee Student Assistance Corporation~~TSAC.

(Rule 1640-01-09-.02, continued)

(d) Be an applicant for initial admission to college after high school graduation at the time of ~~his/her~~the student's initial application for the scholarship. The applicant must enroll at an eligible postsecondary institution within ~~16~~sixteen (16) months following graduation from high school. ~~(For the first year of the program, must not have entered college prior to July 1, 1986.)~~

(e) ~~Be a resident of Tennessee and a citizen or permanent resident of the United States. The applicant's parent(s) or legal guardian must also meet the same residency and citizenship requirements for the applicant to qualify.~~ Be a Tennessee resident, as defined by rules promulgated by the Board of Regents.

(f) Be a citizen, permanent resident or eligible non-citizen of the United States.

(~~f~~g) Make application to TSAC for the scholarship by established deadlines on TSAC-approved application forms.

(~~g~~h) ~~Cause~~ Request a ~~certified~~ copy of the high school transcript ~~to~~ be ~~sent~~ mailed or emailed to TSAC by the high school from which the applicant graduated, ~~(~~or upon the applicant's graduation~~graduating)~~. If the ~~high school transcript does not contain~~ ACT and/or SAT scores have not previously been provided to TSAC, ~~cause~~ ensure at least one of these scores ~~to be are~~is sent to TSAC ~~by the testing agency~~ by the established deadline.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986. Amendment filed February 17, 1988; effective May 29, 1988.*

1640-01-09-.03 QUALIFYING PROGRAMS AND INSTITUTIONS OF HIGHER EDUCATION.

(1) The institution to be attended must be located in Tennessee and be approved by the Tennessee Higher Education Commission (THEC) or accredited by ~~an accrediting agency approved by the Council on Postsecondary Accreditation~~ the Southern Association of Colleges and Schools to award academic associate or ~~higher~~ undergraduate degrees.

(2) The postsecondary educational institution that the recipient will attend must agree in writing ~~to provide~~ to TSAC to provide the administrative and academic information necessary to administer the program. The institution must also agree in writing to match the endowment portion of the scholarship award on a dollar-for-dollar~~1:1~~ basis. The portion of the scholarship matched by the postsecondary institution must not include a work or service requirement.

(3) The program entered must lead to an associate or baccalaureate degree.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986.*

1640-01-09-.04 SCHOLARSHIP AMOUNT, LENGTH, AND INTERVALS OF PAYMENTS.

(1) The ~~scholarship from the endowment, appropriations, and the institution attended will pay at least $4,000 per academic year (nine months), except under the conditions cited in .04 (2) below~~ amount of the award shall be determined by the TSAC Board of Directors and published on TSAC's website.

(2) If the scholarship recipient also receives federal and/or state educational assistance for the

(Rule 1640-01-09-.04, continued)

same award period(s), the total scholarship and ~~federal~~ other aid may not exceed ~~federally stipulated aid maxima~~the cost of attendance.

(3) The recipient must attend on a full-time basis in courses ~~which~~ that are creditable toward the recipient's graduation requirements during the time for which ~~he/she~~the recipient receives the scholarship, as determined by the written policies of the institution attended. At least two semesters of attendance, or the equivalent, ~~of attendance~~ is required each year to remain eligible. ~~(~~The cost for summer enrollment periods will not be covered by the scholarship.~~)~~

(4) Recipients must achieve at least a 3.0 cumulative grade point average (GPA) each academic year to remain eligible.~~To remain eligible to receive awards under the program, the recipient must maintain satisfactory progress on a four point scale within the following guidelines:~~

~~(a) After two or more semesters of attendance, all recipients must have achieved at least a 3.2 cumulative grade point average each academic year to remain eligible, and~~

~~(b) freshmen must also not earn less than 2.75 for either semester,~~

~~(c) sophomores, juniors, and seniors must generally have earned 3.0 each semester above the freshman year to remain eligible. However, the Executive Director may grant a waiver for any semester the cumulative grade point average exceeds 3.2 by at least as much as the semester's grade point average failed to meet the requisite 3.0.~~

(~~d~~a) ~~After two semesters, the recipient's cumulative GPA is allowed to be below 3.2 on one occasion. At such time, the recipient will be notified of a one semester probation status. The award will continue during the probation status. At the conclusion of the probation semester, the cumulative GPA must be 3.2 or above to remain eligible.~~ If a student ceases to be eligible for the Ned McWherter Scholars award due to failure to achieve the required cumulative GPA at the end of an academic year, the student may regain the award by maintaining continuous, full-time enrollment at an eligible postsecondary institution and attaining a cumulative GPA of 3.0 or higher. Eligibility shall be reviewed at the end of each academic year following the loss of the award. The student may regain the award one time. A student who subsequently loses the award after regaining eligibility shall be permanently ineligible.

(5) Recipients in a baccalaureate degree program are eligible for the scholarship for up to eight semesters or twelve quarters. Recipients in an associate degree program are eligible for up to four semesters or six quarters.

(6) Scholarship ~~payments will be made to the student at the beginning of each term~~ recipients must use the Ned McWherter Scholars award for education-related expenses. Ned McWherter Scholars ~~A~~awards shall be first applied to tuition and fees, room and board, and the excess, if any, shall be distributed to the recipient provided the student remains eligible according to subsections (3) and (4) ~~above~~of this rule. ~~If the school participates in Automated Clearing House, the~~ The funds will be sent by direct deposit to the school and the school will ~~be directed to deliver~~ disburse the funds to the ~~honoree~~ recipient. At institutions utilizing the quarter system, one-third of the annual award will be paid at the start of the fall, winter, and spring quarters. At semester institutions, one-half of the annual award will be paid at the start of the fall and spring terms.

(Rule 1640-01-09-.04, continued)

Authority: *T.C.A. §§ 49-4-201, 49-4-203, ~~and~~ 49-4-204, and 49-4-209.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986. Amendment filed May 7, 1991; effective August 28, 1991. Amendment filed January 29, 1993; effective April 30, 1993. Amendment filed April 2, 1996; effective August 28, 1996. Amendment filed August 6, 2002; effective December 27, 2002.*

1640-01-09-.05 APPLICATION AND INITIAL AWARD PROCEDURES.

(1) By February 15, each applicant shall:

(a) ~~students from qualified high schools must~~S~~s~~ubmit an application~~s~~ to TSAC; and

(b) ~~have an official~~ Ensure a copy of the applicant's high school transcript that ~~which~~ contains the high school grades through the seventh semester is submitted by the high school to TSAC. ~~The official ACT and/or SAT test score for the applicant must be submitted to TSAC by February 15, also.~~

(2) Recipients for freshmen awards will be selected by the following criteria:

(a) The applicant must meet the minimum standards described in R~~r~~ule 1640-01-09-.02 ~~hereinbefore~~.

(b) The ACT and/or SAT score, including past scores of each test, the high school grades attained in each course, and the difficulty of the high school program taken will be compared to those of other applicants.

(c) Other relevant factors will be considered ~~which~~ that tend to indicate the success the applicant may have in the program and ~~his/her~~the applicant's future contributions to society. The awards will be made with due regard for broad participation by recipients from across the ~~State~~ state who are representative of various ethnic and racial characteristics and by members of each sex.

(3) Recipients will be recommended by a four~~five~~-person committee chaired and appointed by the Executive Director of THEC / TSAC. The Executive Director of ~~the~~ THEC / TSAC,~~Tennessee Higher Education Commission~~ or ~~his~~ designee, shall serve on the committee. Other members shall include one representative each of public four-year~~senior~~ institutions, private four-year~~senior~~ institutions, and ~~eligible institutions which offer the associate degree as the highest degree~~ community colleges. The selection of these three representatives shall provide for rotation among eligible institutions, according to procedures established by the Executive Director of THEC / TSAC.

(4) ~~By March 15 of each year,~~ During the spring semester of the high school senior year, TSAC will notify ~~freshmen~~ applicants of their award status. Those who ~~were~~ are notified that they ~~were~~ are tentative awardees will have two weeks from the notification date to notify TSAC ~~in writing~~ that they will accept the award or the award will be forfeited.

(5) The number of recipients selected for awards in any one year will be determined by the availability of funds for that year.

(6) ~~The award warrants will be made payable to the recipient, but will be sent to the educational institution for delivery. Before the institution presents the warrant to the recipient,~~ The institution shall ensure that the recipient is enrolled full-time for the period for which the award is given and, after the initial term of enrollment, that the recipient has maintained satisfactory progress in accordance with standards described ~~hereinbefore~~ in R~~r~~ule 1640-01-

(Rule 1640-01-09-.05, continued)

09-.04(4) for the immediately preceding academic term attended by the recipient prior to releasing scholarship funds to the recipient. The electronic certification ~~of these facts~~ shall be ~~forwarded~~ completed by the ~~school~~ institution ~~to the TSAC~~ each term of the award year.

(7) If the deadline under this section occurs on a weekend or holiday, the deadline will be the next business day.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986. Amendment filed February 17, 1988; effective May 29, 1988. Amendment filed January 29, 1993; effective April 30, 1993.*

1640-01-09-.06 RENEWAL SCHOLARSHIPS.

(1) Scholarship awards are made to recipients for one year at a time. After the initial application, renewal applications must be submitted each year ~~in order~~ to continue in the program.

(2) Renewal recipients shall receive first priority for scholarship awards, assuming sufficient funding.

(3) Scholarships will be continued for recipients who continue to meet R~~r~~ule 1640-01-09-.02 standards and maintain satisfactory progress in accordance with the standards described ~~hereinbefore~~ in R~~r~~ule 1640-01-09-.04(4). Upon proper and timely application, such prior recipients will be eligible for a renewal scholarship each year while enrolled in the program until ~~he/she~~the recipient has received a maximum total of twelve quarters or eight semesters in a baccalaureate degree program or a maximum of six quarters or four semesters in an associate degree program in awards.

(4) Students participating in the program may transfer to another eligible institution ~~at the end of the academic year~~. This transfer must be noted on the ~~renewal~~ application. A transfer student retains ~~his or her~~their eligibility provided all other conditions are met. Recipients completing an associate degree may transfer to a ~~senior~~ four year institution to pursue a baccalaureate degree.

(5) Renewal applications, as approved by TSAC, must be submitted by ~~March1~~ February 15 that ~~which~~ immediately precedes the year for which the scholarship is sought. ~~Within thirty days thereafter, recipients will be notified in writing of their tentative awards or loss of eligibility.~~ If the deadline occurs on a weekend or holiday, the application deadline will be the next business day.

(6) All renewal awards are tentative until ~~written~~ confirmation is received by TSAC from the educational institution being attended that the student continues to meet the stipulations in subparagraph (3) ~~above~~ of this Rule after the spring term.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986. Amendment filed May 7, 1991; effective August 28, 1991. Amendment filed January 29, 1993; effective April 30, 1993.*

1640-01-09-.07 APPEALS PROCEDURES.

~~(1) Generally, all rulings of the TSAC's administrator shall apply.~~

~~(2) Those who believe that his/her rulings were not according to the published regulations and statutes may appeal to the TSAC Executive Director for relief.~~

(Rule 1640-01-09-.07, continued)

(~~3~~1) ~~If the Executive Director does not rule in the favor of the complainant the complainant may request a hearing before the TSAC Appeals Committee.~~ All student appeals must be submitted to the TSAC TELS Appeals Panel. Except where exigent circumstances exist, the TELS Appeals Panel shall render a decision no later than fourteen (14) calendar days after receipt of the appeal. The ruling of the TELS Appeals Panel ~~Committee~~ shall be the last administrative remedy.

(2) The TELS Appeals Panel shall have no authority to make an exception to the high school or collegiate GPA requirements.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, and 49-4-204.* ***Administrative History:*** *Original rule filed April 10, 1986; effective July 14, 1986.*

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Stephen Smith	X			
Mr. Mike Krause	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr., by Ms. Shiri Anderson	X			
Comptroller Justin P. Wilson				X
Commissioner Larry Martin, by Mr. Greg Turner	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera	X			
Chancellor David Gregory, by Dr. Heidi Leming	X			
Dr. Joe Dipietro, by Dr. Katie High	X			
Dr. J. Gary Adcox	X			
Ms. Karen Hauser	X			
Ms. Keri McInnis	X			
Dr. LaSimba Gray, Jr.				X
Mr. Tom Hughes				X
Mr. Randy Lowry				X
Mr. Garrett Wilson	X			
Ms. Sharon Hayes	X			

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TSAC Board of Directors on 09/27/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: February 2, 2017

Signature: [signature]

Name of Officer: Mike Krause

Title of Officer: Executive Director

CORSINA DICKSON - WILEY
STATE OF TENNESSEE
08/04/2020
DAVIDSON COUNTY

Subscribed and sworn to before me on: 02-02-17

Notary Public Signature: [signature]

My commission expires on: 08-04-20

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[signature]
Herbert H. Slatery III
Attorney General and Reporter

2/10/2017
Date

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PUBLICATIONS

Filed with the Department of State on: 2/13/17

Effective on: 5/14/17

[signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Community College Reconnect Grant
STATUTORY AUTHORITY:	These rules implement the Community College Reconnect Grant authorized in T.C.A. § 49-4-927, as amended by HB 2117 of 2016. The Reconnect Grant provides financial assistance to adults with some college but no degree to attend a community college in pursuit of an associate's degree. T.C.A. § 49-4-204 and PC 363 authorize the Tennessee Student Assistance Corporation (TSAC) to promulgate rules to effectuate the purposes of the statute.
EFFECTIVE DATES:	May 14, 2017 through June 30, 2018
FISCAL IMPACT:	There should be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of these rules. The Reconnect Grant will be funded with net lottery proceeds for a total of $1.5M to be expended during the life of the grant.
STAFF RULE ABSTRACT:	Public Chapter 363 of 2015, as amended by HB 2117, enacts the Community College Reconnect (Reconnect) Grant and revises certain provisions of the Tennessee Lottery Scholarship Program. The Reconnect Grant will provide a last-dollar scholarship to offset tuition and mandatory fees for adults who return to community college and complete their associate's degree. Returning adults must have previously completed a minimum of 30 credit hours, and not attended a postsecondary school for at least twelve months prior to enrollment. TSAC will distribute a one-time appropriation of $1.5 million from net lottery proceeds for the Reconnect Grant to public two-year postsecondary institutions based on

each institution's percentage of the total nontraditional students enrolled at all public two-year postsecondary institutions. The institutions will then award the grants to eligible students enrolled in each institution on a first-come, first-served basis according to rules promulgated by TSAC beginning with the 2016-2017 academic year.

These rules are proposed as new rules there are no changes in previous regulations effected by such rule.

Public Hearing Comments

These proposed rules were originally adopted by the Board of Directors of the Tennessee Student Assistance Corporation on April 29, 2016.

The Tennessee Student Assistance Corporation received no comments pursuant to the Rulemaking Hearing September 26, 2016.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

The Reconnect Grant will provide a last-dollar scholarship to offset tuition and mandatory fees for adults who want to return to community college and complete their associate's degree. Returning adults must have previously completed a minimum of 30 credit hours and have not attended a postsecondary school for at least twelve months prior to enrollment.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

   The proposed rules will not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rules:

   The proposed rules were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

   The proposed rules were drafted to facilitate administration of the program for eligible postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

   TSAC worked diligently with the postsecondary financial aid community, the Tennessee Higher Education Commission and the Tennessee Board of Regents that are most directly affected by these proposed rules to ensure that proposed compliance and reporting requirements can be practically applied by eligible institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

   The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

   TSAC expects the eligible institutions engaged in the administration of the Community College Reconnect Grant to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

   The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rules; the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; a statement of the probable effect on impacted small businesses and consumers; a description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

   Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no impact on small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

   There are no significant reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

   Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no effect on small businesses.

4. Less burdensome, intrusive, or costly alternative methods:

   As these proposed rules present no foreseeable cost to the eligible postsecondary institutions, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

   There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

   There will be no exemptions created by these proposed rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The rules for the Community College Reconnect Grant Chapter 1640-01-27, as proposed, have no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 363 of 2015, as amended by HB2117, enacts the Community College Reconnect (Reconnect) Grant and revises certain provisions of the Tennessee Lottery Scholarship Program.

The Reconnect Grant will provide a last-dollar scholarship to offset tuition and mandatory fees for adults who want to return to community college and complete their associate's degree. Returning adults must have previously completed a minimum of 30 credit hours and have not attended a postsecondary school for at least twelve months prior to enrollment.

TSAC will distribute a one-time appropriation of $1.5 million from net lottery proceeds for the Reconnect Grant to public two-year postsecondary institutions based on each institution's percentage of the total nontraditional students enrolled at all public two-year postsecondary institutions. The institutions will then award the grants to eligible students enrolled in each respective institution on a first-come, first-served basis according to rules promulgated by TSAC beginning with the 2016-2017 academic year.

As these rules are proposed as new rules there are no changes in previous regulations effectuated by such rule.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rules implement the Community College Reconnect Grant authorized in T.C.A. §49-4-927, as amended by HB2117 of 2016. The Reconnect Grant provides financial assistance to adults with some college but no degree to attend a community college in pursuit of an associate's degree.

T.C.A. § 49-4-204 and PC 363 authorize the Tennessee Student Assistance Corporation (TSAC) to promulgate rules to effectuate the purposes of the statute.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

TSAC, the Tennessee Higher Education Commission, Tennessee Board of Regents, and adult learners are most directly affected by these proposed rules.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There shall be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of these rules. The Reconnect Grant will be funded with net lottery proceeds for a total of $1.5M to be expended during the life of the grant.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Peter Abernathy
Senior Associate Executive Director and Staff Attorney
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to-date.

Department of State Division of Publications 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower Nashville, TN 37243 Phone: 615-741-2650 Email: publications.information@tn.gov	For Department of State Use Only Sequence Number: 02-11-17 Rule ID(s): 6449 File Date: 2/13/17 Effective Date: 5/14/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	Peter.Abernathy@tn.gov

Revision Type (check all that apply):

___ Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1640-01-27	Community College Reconnect Grant
Rule Number	**Rule Title**
1640-01-27-.01	Definitions
1640-01-27-.02	Scholarship Award Amounts
1640-01-27-.03	Distribution of Funds
1640-01-27-.04	Application Process
1640-01-27-.05	Eligibility
1640-01-27-.06	Terminating Events
1640-01-27-.07	Personal or Medical Leave of Absence
1640-01-27-.08	Reporting Requirements
1640-01-27-.09	Award Made In Error
1640-01-27-.10	Refund Policy
1640-01-27-.11	Transfer Students
1640-01-27-.12	Appeal and Exception Process

RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-27
COMMUNITY COLLEGE RECONNECT GRANT

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1640-01-27-.05	Eligibility	1640-01-27-.11	Transfer Students
1640-01-27-.06	Terminating Events	1640-01-27-.12	Appeal and Exception Process

1640-01-27-.01 DEFINITIONS.

(1) Board of Regents: The board of regents of the state university and community college system of Tennessee as created under T.C.A. § 49-8-101.

(2) Continuous Enrollment: The term is defined in T.C.A. 49-4-902.

(3) Cumulative Grade Point Average: The grade point average as calculated by the eligible postsecondary institution.

(4) Degree: A two-year associate degree conferred on students by an eligible postsecondary institution.

(5) Eligible Postsecondary Institution: An eligible public two-year postsecondary institution operated by the board of regents of the state university and community college system.

(6) FAFSA: The term is defined in T.C.A. § 49-4-902.

(7) Gift Aid: The term is defined in T.C.A. § 49-4-708.

(8) Independent Student: A student who is classified as independent as determined by the FAFSA.

(9) Tennessee Resident: A resident of Tennessee as defined by regulations promulgated by the Tennessee Board of Regents.

(10) Satisfactory Academic Progress: Progress in a course of study in accordance with the standards and practices used for Title IV programs by the eligible postsecondary institution at which the student is currently enrolled.

(11) Semester: The term is defined in T.C.A. § 49-4-902.

(12) Semester Hour: The term is defined in T.C.A. § 49-4-902.

(13) Terminating Event: The occurrence of an event described in T.C.A. § 49-4-927(f).

(14) Title IV: The term is defined in T.C.A. § 49-4-902.

(15) TSAC: Tennessee Student Assistance Corporation.

(Rule 1640-01-27-.01, continued)

(16) Tuition and Mandatory Fees: Tuition and mandatory fees required for the enrollment or attendance of students at eligible postsecondary institutions that are charged to all students, and shall not include fees charged for the Regents Online Degree Program, online courses, specific programs of study, books, or supplies even if such fees are considered necessary for enrollment.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, 49-4-902, and 49-4-927.*

1640-01-27-.02 SCHOLARSHIP AWARD AMOUNTS.

(1) The Community College Reconnect Grant is intended to provide financial assistance to offset tuition and mandatory fees associated with pursuing an associate degree at an eligible postsecondary institution after all other gift aid has been credited to tuition and mandatory fees.

(2) Award amounts for the program shall be determined in accordance with T.C.A. § 49-4-927 and shall be set in the General Appropriations Act.

(3) All tuition discounts and waivers for which a student qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.

(4) All gift aid from sources other than the Community College Reconnect Grant shall be credited first to tuition and mandatory fees to reduce the student's Community College Reconnect Grant award. In any given semester, if all other gift aid exceeds tuition and mandatory fees then the student shall not be eligible for the Community College Reconnect Grant in that semester.

(5) The receipt of a Community College Reconnect Grant is contingent upon admission to and enrollment in an eligible postsecondary institution. Qualifying for the Community College Reconnect Grant does not guarantee admission to an eligible postsecondary institution.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.03 DISTRIBUTION OF FUNDS.

(1) Funds shall be distributed to each eligible postsecondary institution in the form of a block grant. The amount received by the institution will be determined by TSAC and will be calculated using the institution's number of enrolled independent students as a percentage of the total independent student population for all eligible postsecondary institutions.

(2) Each eligible postsecondary institution shall make awards to eligible applicants on a first-come, first-served basis, determined by the institution. For purposes of the Community College Reconnect Grant, an applicant is eligible for an award if all eligibility requirements of T.C.A. § 49-4-927 have been met and, if selected, completed the verification process.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.04 APPLICATION PROCESS.

(1) Students participating in the Community College Reconnect Grant shall file a FAFSA, or renewal FAFSA, in each year of program participation. The FAFSA must be submitted by mail or electronically as directed in the FAFSA instructions. Students shall file the FAFSA or renewal FAFSA according to the following deadlines:

(a) No later than September 1 for fall enrollment, or

(Rule 1640-01-26-.04, continued)

(b) No later than February 1 for spring and summer enrollment.

(2) The FAFSA shall serve as the only application for the Community College Reconnect Grant program. No additional application shall be required.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.05 ELIGIBILITY.

(1) To be eligible to receive a Community College Reconnect Grant a student shall meet the requirements of T.C.A. § 49-4-927(b).

(a) A minimum of thirty (30) hours earned prior to enrollment as a Reconnect student shall be applicable to the associate degree the student is pursuing.

(2) To continue to be eligible to receive a Community College Reconnect Grant a student shall meet the requirements of T.C.A. § 49-4-927(d).

(a) A Reconnect student enrolled in the minimum number of hours required by the Community College Reconnect Grant in any semester shall also maintain attendance in the hours enrolled.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.06 TERMINATING EVENTS.

(1) A student shall receive the Community College Reconnect Grant until reaching a terminating event as described in T.C.A. § 49-4-927(f).

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.07 PERSONAL OR MEDICAL LEAVE OF ABSENCE.

(1) A student may be granted a medical or personal leave of absence from continuous enrollment at an eligible postsecondary institution as long as all other applicable eligibility criteria are met. Allowable medical or personal reasons may include illness of the student; illness or death of an immediate family member; extreme financial hardship of the student or student's immediate family; fulfillment of a religious commitment encouraged of members of that faith; fulfillment of required military service; or other extraordinary circumstances beyond the student's control where attendance by the student creates a substantial hardship. In the event an institution denies a student's request for a medical or personal leave of absence, the student may appeal the decision in accordance with these rules.

(2) A student granted a medical or personal leave of absence who resumes attendance at an eligible postsecondary institution may retain the Community College Reconnect Grant if funding remains available. The institution will make a final decision of eligibility and funding availability.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.08 REPORTING REQUIREMENTS.

(1) The eligible postsecondary institution shall report the following data elements for each recipient to TSAC at the end of each semester:

(Rule 1640-01-26-.08, continued)

(a) First name,

(b) Last name,

(c) Social Security Number,

(d) Amount of Community College Reconnect Grant received,

(e) Enrollment Status (full-time or part-time),

(f) Number of hours enrolled at census date,

(g) Number of hours at completion of semester,

(h) Grade point average,

(i) Satisfactory academic progress – Yes / No,

(j) Ineligible reason (if student loses award).

(2) The eligible postsecondary institution shall report other data elements as requested by TSAC for evaluation and analysis of the program.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, 49-4-903, and 49-4-927.*

1640-01-27-.09 AWARD MADE IN ERROR.

(1) Repayment from the student shall not be required if TSAC determines that the error was through no fault of the student.

(2) Repayment from the student shall be required if TSAC determines that fraud was committed or the error was due to the fault of the student. When repayment is required, the student may not receive additional student aid from TSAC until repayment is made.

(3) Repayment from the eligible postsecondary institution will be required if TSAC determines that the error was due to the fault of the institution.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.10 REFUND POLICY.

(1) If a recipient of the Community College Reconnect Grant fails to complete a semester for any reason, the eligible postsecondary institution shall apply its refund policy to determine whether a refund may be required. The eligible postsecondary institution shall provide the student with a notice indicating the amount to be returned to the student. The eligible postsecondary institution shall notify TSAC of the refund. The eligible postsecondary institution shall also be responsible for obtaining repayment from the student. The student shall be ineligible for student aid from TSAC until the refund is paid. Funds returned through the refund policy shall be used to make additional awards to students through the Community College Reconnect Grant.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.11 TRANSFER STUDENTS.

(Rule 1640-01-26-.11 continued)

(1) A student who meets all academic and non-academic requirements of the Community College Reconnect Grant may transfer from one eligible postsecondary institution to another eligible postsecondary institution and maintain the scholarship, provided:

(a) The student is able to complete the diploma or associate degree in the amount of time remaining before reaching a terminating event as outlined in T.C.A § 49-4-927(f), and

(b) The eligible postsecondary institution receiving the transfer student has sufficient program funding available to fund the remaining hours necessary for the student to complete the diploma or associate degree.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-927.*

1640-01-27-.12 APPEAL AND EXCEPTION PROCESS.

(1) Each eligible postsecondary institution shall use their existing Institutional Review Panel (IRP) for purposes of reviewing and rendering decisions regarding appeals for the Community College Reconnect Grant. The IRP shall use the same procedures and timelines as those that currently exist for the review of Tennessee Education Lottery Scholarship (TELS) appeals as outlined in Tenn. Comp. R. & Reg. 1640-01-19.

(2) TSAC shall use the existing TELS Appeals Panel to consider appeals and render decisions for those students who appeal a decision made by the IRP and for appeals made directly to TSAC. The same guidelines shall exist for appeals of the Community College Reconnect Grant as those that are currently in place for TELS as outlined in Tenn. Comp. R & Reg.1640-01-19.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, 49-4-924, and 49-4-927.*

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Will Cromer	X			
Dr. Russ Deaton	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr.	X			
Comptroller Justin P. Wilson by Ms. Shiri Anderson	X			
Commissioner Larry Martin, by Mr. Greg Turner	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera				X
Chancellor David Gregory, by Mr. Dale Sims	X			
Dr. Joe Dipietro, by Dr. India Lane			X	
Mr. Randy Lowry, by Dr. John Smarrelli	X			
Dr. J. Gary Adcox				X
Mr. Richard Smelser	X			
Ms. Keri McInnis				X
Dr. L. LaSimba Gray, Jr.	X			
Mr. Tom Hughes	X			
Ms. Courtney Williams				X

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the TSAC Board of Directors on 04/29/2016 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/04/2016

Rulemaking Hearing(s) Conducted on: 09/26/2016

Date: February 2, 2017

Signature:

Name of Officer: Mike Krause

Title of Officer: Executive Director

CORSINA DICKSON - WILEY
STATE OF TENNESSEE
08/04/2020
DAVIDSON COUNTY

Subscribed and sworn to before me on: 02-02-17

Notary Public Signature:

My commission expires on: 08-04-20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

2/9/2017
Date

Department of State Use Only

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PUBLICATIONS

Filed with the Department of State on: 2/13/17

Effective on: 5/14/17

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Board of Chiropractic Examiners
DIVISION:	
SUBJECT:	General Rules Governing Chiropractic Examiners; Definitions; Scope of Practice; Continuing Education; Professional Ethics; Chiropractic Preceptor Program; Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies
STATUTORY AUTHORITY:	None
EFFECTIVE DATES:	May 18, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	These rulemaking hearing rule amendments define the scope of practice for chiropractic physicians and incorporate policy changes made since the last rule amendments were passed. Additionally, the amendments set forth discipline for failing to complete continuing education requirements and of chiropractors using unlicensed chiropractic therapy assistants and x-ray technicians.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Board of Chiropractic Examiners
Rulemaking Hearing
December 18, 2015

Public Comments

There were two written comments submitted regarding the proposed rules. The first written comment was from Timothy Scott Newton, President of the Tennessee Physical Therapy Association (TPTA). The second commenter was John Williams, an attorney for the Tennessee Chiropractic Association (TCA), who submitted a letter to the Board and orally addressed the Board at the rulemaking hearing. Mr. William's oral comments were an accurate representation of his written comments.

Mr. Newton's letter stated TPTA's concerns that the term "physical therapeutics" as used in Rule 0260-02-.01(20) infringes on the practice of physical therapy under T.C.A. § 63-13-310(b)-(c) and Tennessee Attorney General Opinion 12-27. He stated that TPTA's concern is with the term being used, not its definition. Mr. Newton requested the Board to strike the term "physical therapeutics" from paragraph (20) and replace it with something similar, like "physical agent modalities."

Mr. Williams responded to the comments from the Tennessee Physical Therapy Association (TPTA) regarding the use of the term "physical therapeutics" in these rules. He explained that part of the licensure process requires licensees to pass an exam containing a physiotherapy component. He also stated that:

> The TCA's position [is] that "physical therapeutics" is a part of the practice of every chiropractic physician and should be defined and used in the rules . . . if the General Assembly had wished to prohibit the use of the term . . . [it] would have included the words . . . in T.C.A. § 63-13-310(b). It did not do so.

The Board rejected this change. Board member, Cole James Hosenfeld, responded to Mr. Newton's letter and stated that physical therapy modalities is just a part of a litany of services that chiropractors provide and that while "physical therapy" is a protected term that is representative of a discipline, "physical therapeutics" is a service that transcends discipline. Additionally, Richard Cole, D.C., added that the Board's intention is not to have chiropractors hold themselves out to be physical therapists, but to the contrary, the Board intends to punish those practitioners who do so. He stated that the Board artfully and carefully chose to bring clarity to what its practitioners do without infringing on the practice of physical therapists.

Mr. Williams also addressed the Board with several requested corrections. He first requested that the Board amend language to the definition of "subluxation" so as to make the definition grammatically conform to the wording of other listed definitions.

The Board voted to accept the change to the definition of "subluxation."

Secondly, Mr. Williams asked the Board to amend the proposed language in Rule 0260-02-.02(2) by inserting the word "a" between the words "of" and "chiropractic" and the words "and shall include:" at the end of the sentence to make clear that the language includes tasks that are part of a chiropractic physician's scope of practice.

The Board also voted to accept this change.

Next, Mr. Williams requested the Board to amend Rule 0260-02-.02(4) by deleting the period at the end of subparagraph (a) and replacing it with a semicolon with the word "and." Mr. Williams also asked the Board to move the last sentence in subparagraph (b) to new subparagraph (c).

The Board accepted each change.

The next request was to amend Rule 0260-02-.12(7)(f) by adding waiver language to the end of the subparagraph.

The Board did not accept this change as it determined that existing waiver language contained in Rule 0260-02-.12(8) was sufficient to satisfy this request.

Mr. Williams also requested that the Board amend Rule 0260-02-.21(3) by deleting the first sentence and replacing it with the language "an extern must be supervised by a chiropractic physician licensed in Tennessee." He further requested that the Board delete the following two sentences and retain the last sentence of the paragraph.

The Board accepted these changes but changed the word "extern" to "intern." Additionally, the Board voted to change the word "extern" to "intern" in all parts of the rule.

Lastly, Mr. Williams requested that the Board amend the proposed language in Rule 0260-02-.24(1)(b)2(iii) by adding the words "to practice their professions in Tennessee" to the end of the subpart to conform with the proposed language as listed in Rule 0260-02-.24(2)(b)2(iii).

The Board voted to accept this change.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

These proposed rule amendments exhibit clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

These proposed rule amendments do not affect flexible compliance and/or reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These proposed rule amendment do not affect friendly schedules or deadlines for compliance and/or reporting requirements.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These proposed rule amendments do not consolidate or simplify compliance or reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These proposed rule amendments do not establish performance standards for small business as opposed to design or operation standards required for the proposed rules.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rule amendments do not create entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Chiropractic Examiners

Rulemaking hearing date: 12/18/2015

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   Those practitioners engaged in the practice of chiropractic or business offering chiropractic services will be subject to and will bear the cost of, and/or benefit of the proposed rule amendments. The costs will be minimal.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   The proposed rule amendments will require additional paperwork to be reviewed by the Board, but the effect of such regarding reporting, recordkeeping and other administrative costs should be minimal.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   Small businesses and consumers will likely benefit from the proposed rule amendments as the chiropractic corporations will have to be owned by individuals that are licensed by this Chiropractic Board.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of these proposed rule amendments.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: None.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   The proposed rule amendments do not provide for exemption for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These amendments include defining the scope of practice for chiropractic physicians, and incorporate the policy changes made since the last rule amendments were passed. Additionally, the amendments set forth a discipline for failing to complete CE's and of chiropractors using unlicensed chiropractic therapy assistants and x-ray technicians.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Those practitioners engaged in the practice of chiropractic or businesses offering chiropractic services will be affected by these rule amendments.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mark Cole, Assistant General Counsel, Department of Health.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mark Cole, Assistant General Counsel, Department of Health.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Mark.Cole@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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For Department of State Use Only

Sequence Number: 02-16-17
Rule ID(s): 6452
File Date: 2/17/17
Effective Date: 5/18/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Chiropractic Examiners
Division:	
Contact Person:	Mark Cole
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Mark.Cole@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0260-02	General Rules Governing Chiropractic Examiners
Rule Number	**Rule Title**
0260-02-.01	Definitions
0260-02-.02	Scope of Practice
0260-02-.12	Continuing Education
0260-02-.13	Professional Ethics
0260-02-.21	Chiropractic Preceptor Program
0260-02-.24	Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies

RULES
OF
TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS
DIVISION OF HEALTH RELATED BOARDS

CHAPTER 0260-02
GENERAL RULES GOVERNING CHIROPRACTIC EXAMINERS

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0260-02-.25	Free Health Clinic and Volunteer Practice Requirements
0260-02-.26	Chiropractic Record

0260-02-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

(1) Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, joint mobility or alignment.

(2)~~(1)~~ Advertising - Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.

(3)~~(2)~~ Applicant - Any individual seeking licensure by the board who has submitted an official application and paid the application fee.

(4)~~(3)~~ Board - The Tennessee Board of Chiropractic Examiners.

(5)~~(4)~~ Board Administrative Office - The office of the Unit Director assigned to the board located at 665 Mainstream Drive, Nashville, TN 37243.

(6)~~(5)~~ Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.

~~(6) Chiropractic Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, with or without recoil and directed by specific anatomical listings designed to reduce or correct a subluxated unit.~~

(Rule 0260-02-.01, continued)

~~(7) Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five (5) components of a subluxation complex preceding or following specific adjustive procedures.~~

(7)~~(8)~~ Closed Files - An administrative action which renders an incomplete or denied file inactive.

(8)~~(9)~~ Department - Tennessee Department of Health.

(9)~~(10)~~ Division - The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.

(10)~~(11)~~ Documentation - Refers to and includes, but is not limited to, notations made by the provider or his designated assistant in the patient record, relevant reports from other providers, electronically obtained and/or stored information and all diagnostic imaging, etc.

(11)~~(12)~~ Excessive - That which fails to be substantiated beyond the quantity of procedures customarily performed or utilized by a prudent person similarly trained, skilled and experienced in a specific diagnostic or treatment procedure or technique in question.

(12)~~(13)~~ Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.

(13)~~(14)~~ Good Moral Character - The quality of being highly regarded in personal behavior and professional ethics.

(14)~~(15)~~ He/she Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.

(15)~~(16)~~ HRB - When the acronym HRB appears in the text of these rules, the HRB represents Health Related Boards.

(16)~~(17)~~ License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.

~~(18) Manipulation - A passive movement for the purpose of testing joint space mobility and/or a manual intervention utilized for releasing muscles and less contractible structures that have lost elasticity with their effects on joint function, and which is not designed to bring about articular change when locked out of its physiologic joint space and/or range of motion.~~

(17) Manipulation - A passive therapeutic intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, directed to specific structures of the frame to improve joint function, neurological integrity, mobility or alignment.

(18)~~(19)~~ National Board - Means the National Board of Chiropractic Examiners.

(19)~~(20)~~ Person - Any individual, firm, corporation, partnership, organization, or body politic.

(20) Physical Therapeutics - Physical agents, rehabilitative and/or therapeutic procedures utilized in the restoration and maintenance of health.

(21) Registrant - Any person who has been lawfully issued a license.

~~(22) Subluxation - When one or the other of two adjacent articular surfaces has lost its normal position, affecting its active, passive or anatomical end range and is classified less than a~~

(Rule 0260-02-.01, continued)

~~dislocation. A subluxation complex includes one or more of its five components which may result in a primary, related and/or attending diagnosis.~~

(22) Subluxation - An abnormal condition where one or the other of two adjacent articular surfaces has lost its articular or neurological function , position, or alignment and is classified less than a dislocation.

(23) Substantiation - Any test, examination, recorded symptom or other observation of the patient (or, in the case of a minor or otherwise legally incompetent person, reported to the provider or his staff by the parent or legal guardian) by the provider and determined by said provider to be useful in arriving at a treating or management diagnosis and/ or the determination of what, how, when, where and why to examine, treat, consult or refer a patient.

~~(24) Therapeutic Care - Any approved care of specific chiropractic adjustive procedures utilized in patient care, for the purpose of returning the patient to a stabilized or pre-clinical status.~~

(24) Therapeutic Care - An approved, adjustive, manipulative, nutritional, therapeutic or rehabilitative treatment administered by or ordered by a chiropractic physician for the restoration and maintenance of health.

(25) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.

(26) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123.* ***Administrative History:*** *Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002.*

0260-02-.02 SCOPE OF PRACTICE.

(1) Any person who possesses a valid unsuspended and unrevoked license issued by the Board has the right to use the title licensed chiropractic physician. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed chiropractic physician. The work performed includes offering case management procedures and recommendations for health care and services to the public.

~~(2) The scope of practice of chiropractic physicians shall be as set forth in T.C.A. §§ 63-4-101.~~

(2) The scope of practice of a chiropractic physician shall be as set forth in T.C.A. § 63-4-101 and shall include:

(a) As a portal of entry provider, a chiropractic physician has authority to make a differential diagnosis that may include the use of patient history, examination techniques, lab analysis and analytical instruments for the purpose of determining vital signs and screening of health status, orthopedic and neurological testing, range of motion and muscles testing and diagnostic evaluation and/or imaging of the human body that may be revealed in a state of pathology, as a basis for making clinical judgments as to the patient's condition, degree or nature of treatment needed and management and rehabilitation of the human body which is in the opinion of the provider, appropriate for the restoration and maintenance of health.

(b) A chiropractic physician has the authority to perform an adjustment, manipulation or treatment which may include physical therapeutic interventions to the human frame and/or soft tissues for the restoration and/or supportive care and/or maintenance of health.

(c) The chiropractic physician's responsibility for patient care, case management , and the protection of the patient includes the authority to make a proper referral to a particular health specialist for consultation or collaborative care, and also for treatments, therapeutic procedures, recommendations, recording and reporting to third-party payers, preparing narratives, giving of depositions and in-court testimony as an expert witness and determination of impairment ratings.

(d) The scope of practice of a chiropractic physician includes such supportive care as nutritional evaluation, recommendation and supplementation, patient management in their mental and physical environment, and due regard for patients concerning diet, hygiene, sanitation and rehabilitation.

(e) The scope of practice of a chiropractic physician includes the ordering, from a licensed or certified laboratory, analysis of blood, urine, or other bodily fluids, secretions or excretions, for the diagnosis and management of the patient.

(f) The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trial or study as the exclusive endorsement for setting standards of practice.

(3) Spinal manipulation / Spinal adjustment

(a) Training must be performed in chiropractic institutions or institutions that specialize in spinal manipulative therapy. Spinal manipulation is a highly skilled maneuver that requires adequate training. Four hundred (400) hours of classroom instruction and eight hundred (800) hours of supervised clinical training are considered a minimum level of education to properly administer the techniques.

~~(b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, or Sweat instrumentation.~~

(b) Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, mechanical and/or electromechanical devices.

~~(c) Manipulation moves the spinal segments beyond their normal range of motion for the correction of nerve interference and articular dysfunction, but without exceeding the limits of anatomical integrity.~~

(c) Manipulation moves the spinal segments beyond their normal range of motion for the restoration of neurological integrity, and/or correction of articular dysfunction, but without exceeding the limits of anatomical integrity.

~~(d) A chiropractic diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation procedure.~~

(d) A differential diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation/adjustment procedure.

~~(4) Acupuncture – Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture~~

~~course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.~~

(4) Acupuncture – A licensed chiropractic physician who practices acupuncture must complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners (NBCE) Acupuncture Exam. Prior to engaging in the practice of acupuncture, a chiropractic physician must:

(a) request that an official transcript be sent directly to the Board's Administrative Office from an accredited acupuncture program demonstrating successful completion of at least 250 hours training and education; and

(b) request that official proof be sent directly to the Board's Administrative Office from the NBCE demonstrating successful completion of the acupuncture exam.

(c) Upon receipt, the Board office shall provide a letter to proceed with the practice of acupuncture.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, 63-4-122, 63-6-1002.* ***Administrative History:*** *Original rule filed December 5, 1978; effective April 2, 1979. Repeal and new rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 24, 2002; effective January 7, 2003. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed April 10, 2007; effective June 24, 2007.*

0260-02-.03 NECESSITY OF CERTIFICATION.

(1) Prior to the engagement of the practice of chiropractic in Tennessee, a person must hold a current Tennessee license or temporary license issued pursuant to rule 0260-02-.14.

(2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §§ 3-4-101 et seq. to represent himself/herself as a licensed chiropractor or to hold himself/herself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification.

(3) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the titles "chiropractor," "chiropractic physician" and "doctor of chiropractic," to use the acronym "D.C.," and to practice chiropractic, as defined in T.C.A. §§ 63-4-101. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 0260-02-.20 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. §§ 63-4-114 (4), (13), and (16).

(4) Chiropractic is one of the healing arts and as such the practice of which is restricted to those persons credentialed by the board. Persons engaging in the practice of chiropractic without being credentialed are in violation of T.C.A. §§ 63-1-123.

(5) Licensed chiropractic physicians by virtue of their license shall be qualified to operate x-ray equipment and order examinations of Imagery for diagnostic purposes pursuant to T.C.A. §§ 63-4-119.

(Rule 0260-02-.11, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, and 63-4-112.* ***Administrative History:*** *Original rule filed December 28, 1995; effective March 12, 1996.*

0260-02-.12 CONTINUING EDUCATION.

(1) Basic requirements - The Board of Chiropractic Examiners requires each licensee to complete twenty-four (24) clock hours of Board-approved continuing education each calendar year (January 1 — December 31).

~~(a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year. Licensees who do not practice acupuncture shall not be granted credit for acupuncture continuing education.~~

(a) Acupuncture — Licensees who practice acupuncture shall have six (6) classroom hours each year of the required twenty-four (24) hours in the area of acupuncture. Such licensees must have first met the requirements of Rule 0260-02-.02(4). No credit for continuing education shall be awarded beyond the six (6) hours each year.

(b) Cardiopulmonary Resuscitation (CPR) – Two (2) hours of the twenty-four (24) hour requirement may be in CPR training.

~~(c) No prior approval is required for continuing education courses conducted by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.~~

(c) No prior approval is required for continuing education courses conducted or approved by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or CPR training provided by the American Heart Association or the American Red Cross.

(d) Prior approval is required for all course providers not mentioned in subparagraph (c) of this rule, and may be obtained by submitting the following information to the board's administrative office at least thirty (30) days prior to the scheduled date of the course:

1. A course description or outline; and
2. Names of all lecturers; and
3. Brief résumé of all lecturers; and
4. Number of hours of educational credit requested; and
5. Date of course; and
6. Copies of materials to be utilized in the course; and
7. How verification of attendance is to be documented.

(e) Whenever the Board decides that there is information that is crucial for licensees to have, it may prepare and send that information to all continuing education providers in a format no larger than two (2) pages. All approved continuing education providers must,

(Rule 0260-02-.12, continued)

as a prerequisite to remaining an approved provider, reproduce and distribute this information from the Board to every licensee attending each of its individual continuing education courses or group of courses.

(2) New licensee requirements

(a) A six (6) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence must be taken within twelve (12) months prior to licensure or within the first six (6) months of licensure. If taken prior to licensure, the course must be an additional course beyond the regular chiropractic school program. If taken within the first six (6) months after licensure, the course shall not constitute part of the twenty-four (24) clock hour continuing education requirement in paragraph (1) of this rule for the first calendar year that continuing education is required.

(b) New licensee by examination or reciprocity – New licensees, whether by examination or reciprocity, shall be exempted from the continuing education requirements of 0260-02-.12(1) for the calendar year in which they are licensed, but must take the six (6) hour course as described above in 0260-02-.12(2)(a).

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

(3)~~(4)~~ Documentation

~~(a) Each licensee shall send proof of completion of the annual continuing education requirement to the board's administrative office so that it is received no later than January 15th of the year immediately following the end of each calendar year. Such proof may be transmitted electronically provided the board has capability for electronic receipt of proof. When proof is mailed to the board's administrative office, such proof must be one (1) or more of the following:~~

(a) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the following proofs:

1. Original certificates or photocopies of original certificates verifying the licensee's attendance at continuing education program(s). The original certificates or photocopies of original certificates must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.

2. Original letters or photocopies of original letters on official stationery from the continuing education program's sponsor indicating date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.

3. Original documents or photocopies of original documents verifying successful completion of a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in paragraph (5). The original documents or photocopies of original documents must include the

(Rule 0260-02-.12, continued)

clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, and license number.

(b) Each licensee must retain original documents or photocopies of original documents which verify proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.

~~(c) The licensee must, within (thirty) 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be copies of one (1) or more of the proofs described in subparagraph (a).~~

(c)~~(d)~~ If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.

(4)~~(5) Multi-Media~~ Distance Learning

(a) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:

1. The Internet
2. Closed circuit television
3. Satellite broadcasts
4. Correspondence courses
5. Videotapes
6. CD-ROM
7. DVD
8. Teleconferencing
9. Videoconferencing
10. Distance learning

~~(b) A maximum of six (6) credit hours may be granted for multi-media courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.~~

(b) A maximum of six (6) credit hours may be granted for distance learning courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.

(Rule 0260-02-.12, continued)

(5)~~(6)~~ Continuing education credit will not be allowed for the following:

(a) Regular work activities, administrative staff meetings. case staffing/reporting, etc.

(b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.

(c) Training specifically related to policies and procedures of an agency.

(d) Courses that pertain to the promotion and growth, and the business management of a chiropractic practice.

(6)~~(7)~~ Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure.

(a) Reactivation of Retired Licensure

1. An individual whose license has been retired for one year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and can not be counted toward meeting the calendar year end requirement.

2. Any individual requesting reactivation of a license which has been retired for more than one (1) year must submit, along with the reactivation request, verification which indicates the attendance and completion of twenty-four (24) hours of continuing education for the year in which the license is to be reactivated. The continuing education hours must have been begun and successfully completed before the date of reactivation.

(b) Reactivation of Revoked Licensure – No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.

(c) Reactivation or Reinstatement of Expired Licensure – No person whose license has expired may be reactivated or reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation or reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reactivation or reinstatement.

(d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.

(7)~~(8)~~ Violations

(a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(Rule 0260-02-.12, continued)

(c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

~~(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action.~~

(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action. That disciplinary action will include: (1) Assessment of a civil penalty in the amount of six hundred dollars ($600.00), which must be paid no later than 30 days after the assessment becomes final; and (2) A requirement that the licensee must make up the hours in which he/she is deficient, in addition to the continuing education hours necessary to be obtained annually. The deficient hours must be made up in the subsequent year. Failure to fulfill these requirements may result in additional disciplinary action.

(e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

(8)~~(9)~~ Waiver of Continuing Education

(a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the board that compliance was beyond the physical capabilities of or would constitute undue hardship to the person seeking the waiver.

(b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board's administrative office:

1. A written request for a waiver which specifies what requirements is sought to be waived and written and signed explanation of the reason for the request.

2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the board.

(c) A waiver approved by the board is effective only for the calendar year for which the waiver is sought.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-106 and 63-4-112.* ***Administrative History****: Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002. Amendment filed December 4, 2003; effective February 17, 2004. Amendments filed January 5, 2006; effective March 21, 2006. Amendment filed October 18, 2006; effective January 1, 2007. Amendment filed January 11, 2007; effective March 27, 2007. Amendment filed April 10, 2007; effective June 24, 2007. Amendments filed October 27, 2008; effective January 10, 2009. Amendment filed July 26, 2010; effective October 24, 2010. Amendment filed October 14, 2011; effective January 12, 2012.*

0260-02-.13 PROFESSIONAL ETHICS. Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

(1) Conduct designed to, or likely to, deceive, or harm the public.

(Rule 0260-02-.13, continued)

(2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of chiropractic.

(3) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements of T.C.A. §§ 63-4-101, et seq.

~~(4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment thereunder, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness. Advertising or promoting the same must include the intent of notice to the insurer and the record must include proof to the actual notice to the appropriate third party. If no advertising or promotion is given to any patient in the practice, the provider may excuse any portion or all fees to insure that all patients may receive all necessary procedures, if unable, due to circumstances, pay for their services.~~

(4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment, unless the insurer is notified in writing of the fact of such waiver. Advertising or promoting the same must include the notice to the insurer and the record must include proof of the actual notice. If the patient is unable, due to circumstances, to pay for their services and no advertising or promotion is given to the patient, the provider may excuse any portion of fees to insure that the patient may receive the necessary procedure.

(5) Grossly excessive use of examinations of a patient or a pattern of clearly excessive use of examinations of patients when patients are charged for this service or reimbursement of the examination(s) is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated, finding(s) or condition(s) of the patient(s) which warrant(s) the use of examination(s) for a chiropractic diagnosis.

(6) Grossly excessive use of care and treatment of a patient or a pattern of clearly excessive use of care and treatment of patients when patients are charged for this service or reimbursement of payment for the care and treatment is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated finding(s) or condition(s) of the patient(s) based on a chiropractic diagnosis which warrant(s) the treatment(s) and care performed.

(7) A chiropractic physician shall not overutilize or otherwise improperly use ionizing radiation. In order to avoid overutilization of ionizing radiation, a chiropractic physician shall observe the following guidelines:

(a) Routine radiography of any patient shall not be performed without due regard for clinical need;

(b) Subsequent radiographic evaluation of the patient shall not be undertaken without significant observable clinical indication, as determined by the treating chiropractic physician. The significant observable indication required by this subsection shall not apply to reevaluations of the spinal subluxation complex. The spinal subluxation complex is determined to be a significant observable indication.

(8) Sexual misconduct.

(a) Licensees shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances or verbal or nonverbal conduct that is sexual in nature,

(Rule 0260-02-.13, continued)

that occurs in connection with the licensee's activities or roles as a licensee and that either is unwelcome, offensive, or creates a hostile workplace environment and the licensee knows or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

(b) Licensees shall not engage in sexual relationships with current patients, employees, or co-workers because such relationships are likely to impair judgment or be exploitative.

(c) Licensees shall not accept as patients persons with whom they have engaged in sexual intimacies.

(d) Licensees shall not engage in sexual intimacies with a former patient for at least six (6) months after cessation or termination of professional services.

(e) Licensees must respect a patient's dignity at all times and should provide appropriate gowns and private facilities for dressing, undressing, and examination. A licensee should not be present in the room when a patient is dressing or undressing.

(f) Licensees may have a chaperone present during examination for the protection of both the patient and the licensee. A licensee should refuse to examine sensitive parts of the patient's body without a chaperone present.

(9) Unlicensed assistants – Licensees shall not allow staff personnel to perform procedures or services in the clinic for which the personnel do not hold the license or certification required for such performance. This includes those services for which certification as a chiropractic therapy assistant or a chiropractic x-ray technologist is required. Violators will be subject to a civil penalty of up to one thousand dollars ($1000.00) per month for each employee found to be practicing without a license. Failure to pay any assessed civil penalty may result in additional disciplinary action.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-401, 63-4-106, and 63-4-114.* ***Administrative History:*** *Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed April 14, 2003; effective June 2003.*

0260-02-.14 REPEALED.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-103, 63-4-106, 63-4-112, 63-4-114, 63-4-120, and Public Chapter 618 of the Public Acts 2000.* ***Administrative History:*** *Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Repeal filed October 14, 2011; effective January 12, 2012.*

(Rule 0260-02-.20, continued)

shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

(6) Telemarketing.

(a) Telemarketing or telephonic solicitation by licensees, their employees, or agents to victims of accidents or disaster shall be considered unethical if carried out within thirty (30) days of the accident or disaster, and subject the licensee to disciplinary action pursuant to T.C.A. §§ 63-4-114.

(b) Telemarketing transcripts shall be maintained for a period of two (2) years following their utilization.

(c) A log of contacts must be maintained for a period of two (2) years following the telemarketing encounter.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-114 and 63-4-122.* ***Administrative History:*** *Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed April 10, 2007; effective June 24, 2007.*

0260-02-.21 CHIROPRACTIC PRECEPTOR PROGRAM.

~~(1) Application for Preceptor Program~~

~~An application will be considered by the board or its designee, based upon;~~

~~(a) If the preceptor named in the application is in good standing with the board.~~

~~(b) If the application for the chiropractic preceptor program includes an intern/extern whom is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.~~

~~(2) Conditions for Practice Under a Preceptor Program~~

~~(a) The conditions for practice are the same as for a temporary licensee, as outlined in rule 0260-02-.14(2) and (3), additionally;~~

~~(b) The preceptor program will be discontinued upon graduation of the intern/extern, however, if the graduate has completed the application for licensure in this state and upon filing an application for temporary license, when approved, including the payment of the fee in accordance with rule 0260-02-.14(l), may continue, practicing as a temporary licensee.~~

(1) Applications for Preceptor Program

An application will be considered by the board or its designee, based upon:

(a) If the preceptor named in the application is in good standing with the board.

(b) If the application for the chiropractic preceptor program includes an intern who is serving his/her internship with a chiropractic college accredited by the Council on

(Rule 0260-02-.21, continued)

Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.

(2) Conditions for Practicing Under a Preceptor Program

(a) An intern must have approval from the chiropractor preceptor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With the approval, an intern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.

(b) The preceptor program will be discontinued upon graduation of the intern.

(c) In the event of a vacation or a prolonged illness the chiropractor preceptor must make arrangements for continued supervision by a licensed chiropractic physician. These arrangements must include obtaining a letter from the new chiropractor preceptor addressed to the previous preceptor stating that he/she will take the responsibility for the supervision as set out in subparagraph (2)(a) above. The previous preceptor must also forward a copy of the letter to the Board Administrative Office.

(d) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractor preceptor (attending physician).

(3) Supervision – An intern must be supervised by a chiropractic physician licensed in Tennessee. The preceptor shall be on the facility premises while the intern is conducting patient care.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-107, 63-4-108, 63-4-120, and 63-4-121.* ***Administrative History:*** *Original rule filed December 28, 1995; effective March 12, 1996.*

0260-02-.22 SUBSTANTIATION OF SERVICES. It is intended that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional and unethical conduct in the practice of chiropractic and may subject a licensee to disciplinary action pursuant to T.C.A. *§§ 63-4-114 (4).*

(1) These standards apply to all licensed chiropractic physicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) services.

(2) Adequate patient records shall be legibly maintained.

(3) Initial and follow-up services (daily records) shall consist of documentation to justify care.

(4) If abbreviations or symbols are used in the daily recordkeeping, a key must be provided.

(5) All patient records shall include but not be limited to:

(a) patient history

(b) subjective/objective findings

(c) examination

(d) diagnosis

(e) treatment,

(Rule 0260-02-.22, continued)

(f) and reevaluation or referral.

(6) In any disciplinary action against a chiropractic physician for any reason, the Board shall apply these minimal clinical standards.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-106, and 63-4-114.* ***Administrative History:*** *Original rule filed February 12, 1996; effective April 27, 1996.*

0260-02-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

(1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be set by statute, as provided in Public Chapter 373 of the Public Acts of 1999.

(2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know Act of 1998, the following criminal convictions must be reported:

(a) Conviction of any felony; and

(b) Conviction or adjudication of guilt of any misdemeanor within the most recent ten (10) years, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:

1. Sex.

2. Alcohol or drugs.

3. Physical injury or threat of injury to any person.

4. Abuse or neglect of any minor, spouse or the elderly.

5. Fraud or theft.

(c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-51-101, et seq., and Public Chapter 373 of the Public Acts of 1999.* ***Administrative History:*** *Original rule 0260-02-.23 filed March 14, 2000; effective May 28, 2000.*

~~0260-02-.24 CHIROPRACTIC PROFESSIONAL CORPORATIONS AND CHIROPRACTIC PROFESSIONAL LIMITED LIABILITY COMPANIES.~~

0260-02-.24 Chiropractic Professional Corporations (CPC) and Chiropractic Professional Limited Liability Companies (CPLLC).

(1) Chiropractic Professional Corporations (CPC) – Except as provided in this rule Chiropractic Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.

(a) Filings – A CPC need not file its Charter or its Annual Statement of Qualifications with the Board.

(Rule 0260-02-.24, continued)

~~(b) Ownership of Stock – With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:~~

~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~

~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:~~

~~(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or~~

~~(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or~~

~~(iii) A combination of professionals authorized by subparts (i) and (ii).~~

(b) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or

2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or

(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or

(iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.

(c) Officers and Directors of Chiropractic Professional Corporations -

1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. §§ 48-101-610 (d) and subparagraph (1) (b) of this rule:

(i) Secretary;

(ii) Assistant Secretary;

(Rule 0260-02-.24, continued)

(iii) Treasurer; and

(iv) Assistant Treasurer.

2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. §§ 48-101-610 (d) and subparagraph (1) (b) of this rule shall be directors of a CPC.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician incorporator, shareholder, officer, or director, while acting on behalf of the CPC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).

2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPC.

3. Nothing in these rules shall be construed as prohibiting a CPC from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician incorporators, directors, officers, shareholders, employees or contractors of the CPC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.

4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from owning shares of stock in any type of professional corporation other than a CPC so long as such ownership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.

(2) Chiropractic Professional Limited Liability Companies (CPLLC) - Except as provided in this rule Chiropractic Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapter 248 or Public Chapter 286 of the Public Acts of 2005.

(a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.

~~(b) Membership – With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:~~

~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~

~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:~~

(Rule 0260-02-.24, continued)

~~(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or~~

~~(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or~~

~~(iii) A combination of professionals authorized by subparts (i) and (ii).~~

(b) Membership - With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4; and/or

2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

(i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic services in Tennessee, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or

(ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or

(iii) A combination of professionals authorized by subparts (i) and (ii) as long as those professionals are licensed to practice their professions in Tennessee.

(c) Managers, Directors or Governors of a CPLLC

1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. §§ 48- 248-401 and subparagraph (2) (b) of this rule:

(i) Secretary

(ii) Treasurer

2. Only persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. §§ 48-248-401 and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a CPLLC.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician member, officer, manager, director, or governor, while acting on behalf of the CPLLC, to engage in,

(Rule 0260-02-.24, continued)

chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).

2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPLLC.

3. Nothing in these rules shall be construed as prohibiting a CPLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Limited Liability Company Act or the Tennessee Revised Limited Liability Company Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician members or holders of financial rights, governors, officers, managers, employees or contractors of the CPLLC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.

4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from being a member of any type of professional limited liability company other than a CPLLC so long as such membership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.

5. All CPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 or Public Chapter 286 of the Public Acts of 2005, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.

(3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a CPC or a CPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.

(a) Service of a written notice of violation by the Board on the registered agent of the CPC and/or CPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005 occurs.

(b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).

(c) The notice of violation shall state that the CPC and/or CPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.

(d) The notice of violation shall state that, if the Board finds that the CPC and/or CPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.

(e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4,Chapter 5 but that the CPC and/or

(Rule 0260-02-.24, continued)

CPLLC, through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.

(f) If, after the proceeding the Board finds that a CPC and/or CPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1)-(3) and/or 48-248-409 (1)-(3) and/or Public Chapter 286 of the Public Acts of 2005.

(4) Violation of this rule by any chiropractic physician individually or collectively while acting as a CPC or as a CPLLC may subject the chiropractic physician(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-4-114 (4).

(5) The authority to own shares of stock or be members or holders of financial rights in an CPC or an CPLLC granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-103, 63-4-106, 63-4-107, 63-4-114, 63-4-119, and Public Chapter 286 of the Public Acts of 2005.* ***Administrative History:*** *Original rule filed December 18, 2003; effective March 2, 2004. Amendment filed March 16, 2007; effective May 30, 2007. Amendment filed August 23, 2012; effective November 21, 2012.*

0260-02-.25 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

(1) Free Health Clinic Practice Pursuant to T.C.A. §§ 63-1-201.

(a) Any chiropractor licensed to practice chiropractic in this state or any other state who has not been disciplined by any licensure board may have his/her 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. Have the licensing authority of every state in which the chiropractor holds or ever held a license to practice submit directly to the Board's administrative office the equivalent of a "certificate of fitness" as described in T.C.A. §§ 63-1-118 which shows that the license has never been subjected to any disciplinary action and is free and clear of all encumbrances; and

3. For chiropractors who have not been licensed in Tennessee, comply with all provisions of subparagraphs (2) (d), (2) (e), and (2) (f) of rule 0260-02-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Richard Cole, D.C.	X				
Andrea L. Selby, D.C.				X	
Joseph Frank Amato, D.C	X				
Cole James Hosenfeld	X				
Chris Alexander, D.C	X				
Sheila Fitzgerald	X				
Nancy Strawn				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Chiropractic Examiners (board/commission/ other authority) on 12/18/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *10/27/15 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *12/18/15 (mm/dd/yy)*

Date: 2/1/17

Signature: Mark Cole

Name of Officer: Mark Cole

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 2-1-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: SUZANNE MECHKOWSKI STATE OF TENNESSEE NOTARY PUBLIC MY COMMISSION EXPIRES APRIL 19, 2017 SUMNER COUNTY

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

2/10/2017
Date

Department of State Use Only

Filed with the Department of State on: 2/17/17

Effective on: 5/18/17

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Environment and Conservation
DIVISION:	Office of General Counsel
SUBJECT:	Access to Department of Environment and Conservation Public Records
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 11-1-101 and 10-7-504(a)(21)(A)(i)
EFFECTIVE DATES:	May 17, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The purpose of this rulemaking hearing rule is to provide guidance to the Department's records custodians and to interested parties requesting public records regarding the implementation of Tenn. Code Ann. § 10-7-504(a)(21)(A)(i). This subdivision designates any records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, services provided by a utility service provider as confidential and not open to public inspection. The list of records in paragraph (5) of Rule 0400-01-01-.01 is not exhaustive and may be amended in the future to include additional records determined to be exempt.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: A commenter stated that TAUD has always felt that the GPS/GIS of intakes and wells should not be open to the public. We contracted with TDEC to perform the first wellhead and source water protection programs in Tennessee and we went to great lengths to protect that information. We support keeping this information confidential.

Response: The Department believes that Tenn. Code Ann. § 10-7-504(a)(21)(A)(i) requires the protection of this information.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

Outside of utility service providers there are no small businesses impacted by this proposed rule. This rulemaking will benefit utility service providers and will not add any cost.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no changes to reporting or recordkeeping in the proposed rule changes.

(3) A statement of the probable effect on impacted small businesses and consumers.

No effect on businesses or consumers is expected.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

Any measures less burdensome would not achieve the purpose of the rule.

(5) A comparison of the proposed rule with any federal or state counterparts.

Many states have laws similar to Tennessee's including Georgia, Pennsylvania, and Indiana.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There are no additional requirements in the rule changes.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Department does not anticipate that these amended rules will have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The purpose of this rulemaking is to provide guidance to the Department's records custodians and to interested parties requesting public records regarding the implementation of Tenn. Code Ann. § 10-7-504(a)(21)(A)(i). This subdivision designates any records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, services provided by a utility service provider as confidential and not open to public inspection. The list of records in paragraph (5) of Rule 0400-01-01-.01 is not exhaustive and may be amended in the future to include additional records determined to be exempt.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is being promulgated under the authority of Tenn. Code Ann. §§ 11-1-101 and 10-7-504 (a)(21)(A)(i).

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rulemaking affects any person interested in identifying areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, services provided by a utility service provider. None of these persons commented on this rulemaking. The utility service providers and records custodians are also affected by this rulemaking. The TAUD urged adoption of this rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There is no impact in state or local government revenues or expenditures as result is this rulemaking.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Wayne Gregory
Office of General Counsel
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5420
Wayne.gregory@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Lucian Geise

Senior Counsel for Legislative Affairs Office of General Counsel

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel Tennessee Department of Environment and Conservation William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee 37243 (615) 532-0108 Lucian.Geise@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-14-17
Rule ID(s): 6451
File Date: 2/16/17
Effective Date: 5/17/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Environment and Conservation
Division: Office of General Counsel
Contact Person: Wayne Gregory
Address: William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee
Zip: 37243
Phone: (615) 253-5420
Email: Wayne.Gregory@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0400-01-01	Fees and Charges for Certain Departmental Services
Rule Number	**Rule Title**
0400-01-01-.01	Access to Department of Environment and Conservation Public Records

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0400-01-01
Fees and Charges for Certain Departmental Services

Amendment

Rule 0400-01-01-.01 Access to Department of Environment and Conservation Public Records is amended by adding a new paragraph (5) to read as follows:

(5) Non-public records under T.C.A. § 10-7-504(a)(21)(A)(i)

In accordance with T.C.A. § 10-7-504(a)(21)(A)(i), the following records, and any other records determined by the Department to be described by such subdivision, shall be treated as confidential and shall not be open for public inspection:

(a) The latitude and longitude coordinates of public water system wells, intakes, water mains, water tanks, valves and GIS analyses derived from these data;

(b) Records pertaining to the delineation of source water protection areas; and

(c) Records pertaining to well head protection areas and inventories of significant potential contaminant sources.

Authority: T.C.A. §§ 11-1-101, 10-7-504(a)(21) and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 10/31/2016 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *02/02/16*

Rulemaking Hearing(s) Conducted on: (add more dates). *03/29/16*

Date: October 31, 2016

Signature: [signature]

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner

CAROL L. GRICE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

Subscribed and sworn to before me on: October 31, 2016

Notary Public Signature: [signature]

My commission expires on: March 3, 2020

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[signature]
Herbert H. Slatery III
Attorney General and Reporter

2/10/2017
Date

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Filed with the Department of State on: 2/16/17

Effective on: 5/17/17

[signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	State Board of Equalization
DIVISION:	
SUBJECT:	Assessment of Commercial and Industrial Tangible Personal Property
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section Title 67, Chapter 5, Part 9
EFFECTIVE DATES:	May 22, 2017 through June 30, 2018
FISCAL IMPACT:	A 2013 decision of the TN Assessment Appeals Commission In re: Central Woodwork (9-12-13), decided adversely to a taxpayer on the issue of 'inventory versus raw materials', entailed additional local tax liability of about $20,000. The result in this case owing to uncommon facts, it is presumed to be anecdotal rather than predictive of regular fiscal consequences either for taxpayers or local governments.
STAFF RULE ABSTRACT:	These rulemaking hearing rule amendments: 1) Provide taxpayer guidance on reporting 'capitalized repairs' and 'total acquisition cost'; 2) Provide a workable distinction between 'raw materials' and 'inventory' for taxpayers not otherwise considered a 'manufacturer' for tax purposes; 3) Describe acceptable types of evidence to support a claim of non-standard value; and 4) Correct typographical errors and update internal references.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Attached

Comments and Response—SBOE Rule Amendments: Chapter 0600-5 Assessment of Commercial & Industrial Tangible Personal Property (Notice filed 8/19/16)

Summary of proposed amendments

These proposed amendments: 1) provide taxpayer guidance on reporting 'capitalized repairs' and 'total acquisition cost'; 2) provide a workable distinction between 'raw materials' and 'inventory' for taxpayers not otherwise considered a 'manufacturer' for tax purposes; 3) describe acceptable types of evidence to support a claim of non-standard value; and 4) correct typographic errors and update internal references.

Written comments received with agency response

CPA Neill Murphy of State & Local Tax Advisors, LLC, expressed support for the proposal while suggesting clarification in reporting requirements for capitalized expenditures. Mr. Murphy's requested clarifications have been addressed in the final draft.

Regulatory Flexibility Addendum

The following information is provided pursuant to T.C.A. §§ 4-5-401 through 4-5-404.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

Response: The law and rules for assessment of business tangible personal property apply to every Tennessee business, large or small, however businesses having total personalty value of $1,000 or less may file a summary report subject to audit. The amendments are not believed to entail additional cost of compliance for businesses generally because the requested information is already maintained by the property owner for federal income tax accounting.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

Response: No additional cost expected, see answer to no. 1, above.

(3) A statement of the probable effect on impacted small businesses and consumers.

Response: No cost to consumers. To reporting businesses, no additional cost expected generally. A 2013 decision of the TN Assessment Appeals Commission *In re: Central Woodwork* (9-12-13), decided adversely to a taxpayer on the issue of 'inventory versus raw materials', entailed additional local tax liability of about $20,000. The result in this case owing to uncommon facts, it is presumed to be anecdotal rather than predictive of regular fiscal consequences either for taxpayers or local governments.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

Response: None identified.

(5) A comparison of the proposed rule with any federal or state counterparts.

Response: None identified.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Response: Businesses having total personalty value of $1,000 or less may file a summary report subject to audit.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

A 2013 decision of the TN Assessment Appeals Commission *In re: Central Woodwork* (9-12-13), decided adversely to a taxpayer on the issue of 'inventory versus raw materials', entailed additional local tax liability of about $20,000. The result in this case owing to uncommon facts, it is presumed to be anecdotal rather than predictive of regular fiscal consequences either for taxpayers or local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These proposed amendments: 1) provide taxpayer guidance on reporting 'capitalized repairs' and 'total acquisition cost'; 2) provide a workable distinction between 'raw materials' and 'inventory' for taxpayers not otherwise considered a 'manufacturer' for tax purposes; 3) describe acceptable types of evidence to support a claim of non-standard value; and 4) correct typographic errors and update internal references.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

TCA Title 67, Chapter 5, Part 9 prescribes general requirements for reporting and assessment of business tangible personal property.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Local governments and taxpayer organizations such as the TN Chamber of Commerce. No comments received.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None. OAG 84-273 describes the constitutional basis of the tax.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

A 2013 decision of the TN Assessment Appeals Commission *In re: Central Woodwork* (9-12-13), decided adversely to a taxpayer on the issue of 'inventory versus raw materials', entailed additional local tax liability of about $20,000. The result in this case owing to uncommon facts, it is presumed to be anecdotal rather than predictive of regular fiscal consequences either for taxpayers or local governments.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Stephanie Maxwell, Comptroller General Counsel; Kelsie Jones, SBOE Executive Secretary

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Stephanie Maxwell, Comptroller General Counsel; Kelsie Jones, SBOE Executive Secretary

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Stephanie Maxwell, Comptroller General Counsel, 505 Deaderick St., Ste 1700, Nashville, TN 37243-1402, (615) 401-7964; stephanie.maxwell@cot.tn.gov; Kelsie Jones, SBOE Executive Secretary, 312

Rosa L Parks Ave, Ste 900, Nashville, TN 37243-1102; (615) 747-5379; kelsie.jones@cot.tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

Available on request.

Department of State Division of Publications 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower Nashville, TN 37243 Phone: 615-741-2650 Email: publications.information@tn.gov	For Department of State Use Only Sequence Number: 02-17-17 Rule ID(s): 6453 File Date: 2/21/17 Effective Date: 5/22/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	State Board of Equalization
Division:	
Contact Person:	Kelsie Jones, Executive Secretary
Address:	312 Rosa L. Parks Avenue, Suite 900 Nashville, TN
Zip:	37243-1402
Phone:	615-401-5379
Email:	Kelsie.Jones@cot.tn.gov

Revision Type (check all that apply):

X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0600-05	Assessment of Commercial and Industrial Tangible Personal Property
Rule Number	**Rule Title**
0600-05-.01	Definitions
0600-05-.02	Discovery
0600-05-.04	Reporting
0600-05-.05	Audit
0600-05-.06	Standard Valuation
0600-05-.07	Nonstandard Valuation
0600-05-.11	Reporting Schedule

Rule Amendments – Chapter 0600-5 Assessment of Commercial and Industrial Tangible Personal Property

Rule 0600-05-.01 is amended by adding the following language as new paragraphs:

( ) "Capitalized repair" means costs that are capitalized on the taxpayer's financial books and records as a fixed asset and either:

(a) add to the value or substantially prolong the useful life of property; or

(b) adapt the property to a new or different use.

( ) "Total acquisition cost" means the full acquisition cost new of personal property and includes freight, installation, set-up, and sales tax.

Rule 0600-05-.01 is amended by deleting paragraph (4) in its entirety and substituting instead the following:

~~(4) "Fair market value" shall be defined in accordance with *T.C.A. §67-5-601.*~~

(4) "Fair market value" of personal property shall be ascertained in accordance with T.C.A. §§67-5-601 and 602.

Rule 0600-05-.01 is amended by deleting paragraph (6) in its entirety.

~~(6) "Original cost" shall be defined as the gross capitalized cost before depreciation.~~

Rule 0600-05-.01(8) is amended by deleting "manufacturer" and substituting in its place "taxpayer".

(8) "Raw material" shall be defined as items of tangible personal property, crude or processed, which are held or maintained by a ~~manufacturer~~ taxpayer for use through refining, combining, or any other process in the production or fabrication of another item or product.

Rule 0600-05-.01(8) is further amended by adding the following language as new sentences:

The determination of whether tangible personal property should be classified as raw material depends on the taxpayer's use of the property and not on the nature or character of the taxpayer's business. Tangible personal property may be classified as raw material in the hands of the taxpayer even if the taxpayer is not considered to be a manufacturer under other Revenue code provisions.

Rule 0600-05-.01(11) is amended by adding "reasonable" between "no" and "expectation".

(11) "Scrap value" shall be defined as the value of personal property no longer capable of use and for which there is no reasonable expectation of repair.

Rule 0600-05-.02(2)(b) is amended by deleting "telephone book" and substituting in its place "internet".

(2) The following additional sources are recommended for use whenever possible for the discovery of businesses:
(a) field visits;
(b) ~~telephone book~~ internet;
(c) new construction;
(d) media news and advertising;
(e) city directory;
(f) local business directory;
(g) chamber of commerce;
(h) building permits and electrical inspections;

(i) commercial vehicle license plates;
(j) uniform commercial code filings;
(k) any other pertinent sources.

Rule 0600-05-.04 is amended by adding the following language as new paragraphs:

(4) The taxpayer must report the total acquisition cost new of property. The total acquisition cost of all property must be reported as acquired in the year the property was placed in service rather than the year of purchase, if those years differ. The total acquisition cost reported should include the full invoiced cost without deduction for the value of certain inducements such as agreements and warranties when these inducements are regularly provided without additional charge.

(5) A capitalized expenditure made with respect to property after the initial acquisition must be reported in the year the expenditure is booked as a fixed asset. The costs of the capitalized expenditure should be reported as they are shown on the taxpayer's financial accounting fixed asset records. Any expensed furniture, computer equipment, or other expensed items with a life of one year or longer should also be reported in the appropriate groups as assets. Expenses, costs or amounts paid or incurred for incidental repairs and maintenance of property should not be reported.

Rule 0600-05-.05 is amended by adding the following language as new paragraphs:

(3) Audits shall be conducted in accordance with a plan submitted by the assessor of property and approved by the State Board of Equalization.

(4) Assessors shall maintain confidentiality of taxpayer information in accordance with T.C.A. § 67-5-402.

Rules 0600-05-.06(1), (2), (3), and (4) are amended by deleting "original cost" and substituting in its place "total acquisition cost" in each section.

(1) In the absence of evidence to the contrary, the fair market value of commercial and industrial tangible personal property, except raw materials, supplies, and scrap property, shall be presumed to be either the total acquisition cost ~~original cost~~ to the taxpayer less straight line depreciation or the residual value, whichever is greater. The grouping of personal property and the depreciation allowed for each group shall be consistent with the schedule prescribed in Rule 0600-5-.11 below, and shall be based on a reasonable economic life for that group of items.

(2) The fair market value of raw materials and supplies shall be presumed to be their total acquisition cost ~~original cost~~ as determined by the "first-in-first-out" (FIFO) method of accounting, in the absence of evidence to the contrary.

(3) The residual value of personal property shall be presumed to be twenty percent (20%) of total acquisition cost ~~original cost,~~ in the absence of evidence to the contrary.

(4) The scrap value of personal property shall be presumed to be two percent (2%) of total acquisition cost ~~original cost~~, in the absence of evidence to the contrary.

Rule 0600-05-.06(2) is further amended by deleting the period between "accounting" and "in" and substituting in its place a comma.

(2) The fair market value of raw materials and supplies shall be presumed to be their total acquisition cost ~~original cost~~ as determined by the "first-in-first-out" (FIFO) method of accounting, ~~.~~ in the absence of evidence to the contrary.

Rule 0600-05-.06(6) is amended by deleting the period between "equipment" and "whether" in the last sentence and substituting in its place a comma. Rule 0600-05-.06(6) is further amended by adding the number "6" between the dash and "04" in the last sentence, so that the statutory reference shall be to T.C.A. § 67-5-604.

> (6) Any tangible personal property which the taxpayer claims or will claim as CIP for federal income tax purposes based on the status of the property on the assessment date for property taxes may be reported by the taxpayer as CIP for property tax purposes. The value of CIP shall be presumed to be fifteen percent (15%) of all direct and indirect costs incurred and claimed by the taxpayer for federal income tax purposes as of the assessment date. The value of qualified pollution control equipment, ~~-~~whether or not reportable as CIP, shall be governed by T.C.A. §67-5-604.

Rule 0600-05-.07(1) is amended by adding the following language after the first sentence:

> Types of evidence that may support nonstandard value include: recent appraisals by appraisers holding professional designations in the valuation of personal property from recognized appraisal organizations and authoritative price or valuation guides for subject property.

Rule 0600-05-.11 is amended by deleting "he" in the first sentence and substituting in its place "be".

> The following schedule or a facsimile shall ~~he~~ be used by owners of commercial and industrial tangible personal property to report ownership of such property to the assessor pursuant to T.C.A. §67-5-903. A substantially equivalent form may be used with prior approval of the director of the state Division of Property Assessments.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bennett	X				
Burchett	X				
Hargett	X				
Lillard	X				
Roberts	X				
Tarwater	X				
Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rule amendments lawfully promulgated and adopted by the State Board of Equalization on November 16, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *08/09/16*

Rulemaking Hearing(s) Conducted on: (add more dates). *09/26/16*

Date: 1-24-17

Signature: Kelsie Jones

Name of Officer: Kelsie Jones

Title of Officer: Executive Secretary SBOE

Subscribed and sworn to before me on: 24 January 2017

Notary Public Signature: Shirley Marriott

My commission expires on: 08 May 2018

SHIRLEY MARRIOTT
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

0600-05 Assessment of Commercial and Industrial Tangible Personal Property
0600-05-.01 Definitions
0600-05-.02 Discovery
0600-05-.04 Reporting
0600-05-.05 Audit
0600-05-.06 Standard Valuation
0600-05-.07 Nonstandard Valuation
0600-05-.11 Reporting Schedule

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

2/10/2017
Date

Department of State Use Only

Filed with the Department of State on: 2/21/17

Effective on: 5/22/17

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Human Resources
DIVISION:	Office of General Counsel
SUBJECTS:	Employment Practices, Classification, Compensation, Performance Planning and Evaluation, Attendance and Leave, Equal Employment Opportunities, Learning and Development, DHR Administered Programs, Disciplinary Action, Appeals, Computation of Time, and Employee Mediation
STATUTORY AUTHORITY:	Tennessee Code Annotated, §§ 4-3-1701 -- 4-3-1703; §§ 8-30-101 -- 8-30-102; 8-30-104; 42 U.S.C. § 18001 et seq.; and § 8-23-206.
EFFECTIVE DATES:	May 8, 2017 through June 30, 2018
FISCAL IMPACT:	Minimal

STAFF RULE ABSTRACT:

Many of the changes in these proposed rules are cosmetic, such as specifying "calendar" or "business" in reference to days; substituting "performance reviews" for "evaluations"; substituting "conduct" for "behavior"; substituting "performance" for "merit"; substituting "equal employment opportunity" for the term "affirmative action"; and substituting "charitable organizations" for the phrase "social services and health agencies." More substantive changes include: (1) 1120-02.03(3) - qualified that if an employee is removed from an eligible list for any reason, they shall now be notified in writing within ten (10) business days; (2) 1102-02-.04 - Requires that agencies justify the use of promotional lists; (3) 1120-02-.06 - Broadened the instances of when an individual may be removed from eligible lists to include instances where the individual "falsified any material facts" rather than simply "falsif[ying] his/her residence; (4) 1120-02-.11 - Clarified that Limited Term Appointments do not accrue sick leave; (5) 1120-04-.12 - Clarified employees hired alter 6130115 are not eligible for longevity pay; (6) 1120-02-.12 - Removed the definition for "Subsequent Probationary

Period; (7) 1120-04 - Removing the definition for Involuntary Reduction in Rank; (8) 1120-04-.08 An employee who is transferred or laterally reclassified may now be eligible to receive a salary increase "up to five percent as long as agency funds are available and the salary does not exceed the range maximum." (9) 1120-04-.12 - Adds language that prevents employees in the executive branch in the state service from receiving longevity pay if hired after June 30,2015; (10) 1 120-05-.03 - Allows for agencies to utilize a talent management review discussion as a periodic review if approved at the beginning of the Performance Management Cycle; (11)1120-06-.10 - Alters the amount of hours a month that an employee must work before accruing leave from sixteen hundred (1,600) hours to fifteen hundred sixty (1,560) hours.; (12) 1120-06-.07 - Adds language that allows for Rest or Wellness Breaks to be combined into one (1) 30 minute break upon approval by employee's supervisor; (13) 1120-11-.04 - Adding substantive law pursuant to T.C.A. Section 8-30-318(h)(1)(A)(i); (B)(1) which allows for employees in a disciplinary appeals setting to receive notification of any new information obtained by the Appointing Authority prior to that Appointing Authority issuing a decision letter; it also requires the employee or agency, in a Step I discussion, to establish good cause with the designee prior to allowing an additional representative to attend the discussion; and (14) 1120-14-.02 - Removes language that restricts the situation in which a matter may be eligible for mediation.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

Businesses will not have any anticipated costs associated with these rules.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

There are no projected reporting, recordkeeping, or administrative costs for small businesses associated with these rules.

(3) A statement of the probable effect on impacted small business and consumers;

These rules have no projected impact on small businesses or consumers.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

The main objectives of the rule amendments are to update definitions to be consistent with state and federal law and to further the objectives of the Tennessee Department of Human Resources, which include optimizing departmental resources and providing effective and efficient service delivery. There is no impact to small businesses.

(5) A comparison of the proposed rule with any federal or state counterparts; and

There are no known federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This rule does not require small businesses to change their operations as they only pertain to operations of state government. Therefore, there is no need for an exemption.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rules and amendments are not projected to have an impact on local governments as they only pertain to operations of state government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Many of the changes in these rules are cosmetic, such as specifying "calendar" or "business" in reference to days; substituting "performance reviews" for "evaluations"; substituting "conduct" for "behavior"; substituting "performance" for "merit"; substituting "equal employment opportunity" for the term "affirmative action"; and substituting "charitable organizations" for the phrase "social services and health agencies."

More substantive changes include: (1) 1120-02.03(3) – qualified that if an employee is removed from an eligible list for any reason, they shall now be notified in writing within ten (10) business days; (2) 1102-02-.04 – Requires that agencies justify the use of promotional lists; (3) 1120-02-.06 - Broadened the instances of when an individual may be removed from eligible lists to include instances where the individual "falsified any material facts" rather than simply "falsif[ying] his/her residence; (4) 1120-02-.11 – Clarified that Limited Term Appointments do not accrue sick leave; (5) 1120-04-.12 – Clarified employees hired after 6/30/15 are not eligible for longevity pay; (6) 1120-02-.12 – Removed the definition for "Subsequent Probationary Period; (7) 1120-04 – Removing the definition for Involuntary Reduction in Rank; (8) 1120-04-.08 An employee who is transferred or laterally reclassified may now be eligible to receive a salary increase "up to five percent as long as agency funds are available and the salary does not exceed the range maximum." (9) 1120-04-.12 – Adds language that prevents employees in the executive branch in the state service from receiving longevity pay if hired after June 30, 2015; (10) 1120-05-.03 – Allows for agencies to utilize a talent management review discussion as a periodic review if approved at the beginning of the Performance Management Cycle; (11)1120-06-.10 – Alters the amount of hours a month that an employee must work before accruing leave from sixteen hundred (1,600) hours to fifteen hundred sixty (1,560) hours.; (12) 1120-06-.07 – Adds language that allows for Rest or Wellness Breaks to be combined into one (1) 30 minute break upon approval by employee's supervisor; (13) 1120-11-.04 – Adding substantive law pursuant to T.C.A. § 8-30-318(h)(1)(A)(i); (B)(i) which allows for employees in a disciplinary appeals setting to receive notification of any new information obtained by the Appointing Authority prior to that Appointing Authority issuing a decision letter; it also requires the employee or agency, in a Step I discussion, to establish good cause with the designee prior to allowing an additional representative to attend the discussion; and (14) 1120-14-.02 – Removes language that restricts the situation in which a matter may be eligible for mediation.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 4-3-1701[Creation]; 4-3-1702[Commissioner]; and 4-3-1703[Powers and Duties] – These statutes enable the creation of the department and charge the Commissioner and the State Department of Human Resources with certain powers and duties, including: (1) the charge to encourage professional development through training, both at a departmental level and state level; (2) make annual reports regarding personnel administration; and (3) make a study of the state service system and make periodic reports to the governor on recommendations for improvement.

T.C.A. § 8-30-101[Purpose; Policy; Construction] – This statute enables the State Department of Human Resources with the mission to promote employees based on merit; ensure sound best practices within the workplace; and increase government efficiency.

T.C.A. § 8-30-102[Application of Chapter] – This statute enables the State Department of Human Resources to apply its departmental rules to all personnel in state government including: "all officers and positions of trust or employment in the service of state government in the executive branch and all boards, commissions and agencies of state government, except those specifically excluded in this chapter." It also lays out those individuals, departments, bodies of government, and organizations of which this chapter does not apply.

T.C.A. § 8-30-104[Commissioner; duties] – This statute provides the Commissioner of the State Department of Human Resources with the ability to direct and supervise all administrative and technical human resources activities of state service.

42 U.S.C.A. § 18001 et seq.[Patient Protection Affordable Care Act] This subchapter creates the health

insurance program and provides for the administration of such a program.
T.C.A. § 8-23-206[Longevity pay; eligibility; computation] This statute sets forth the process by which qualified state employees receive longevity pay. It also contains a list of those excluded from this benefit.
T.C.A. § 8-30-101 et seq.[T.E.A.M. Act] This statute sets forth the underlying principles of the T.E.A.M. Act, which includes establishing a system of personnel administration that will attract, select, retain and promote the best employees based on merit and equal opportunity, free from coercive political influences.

There is no known federal rule or regulation that mandates promulgation of the relevant rules or guidelines relating to the Tennessee Department of Human Resources.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

State agencies and state employees will be the primary recipients of any and all relevant rule changes submitted within this document.

The Tennessee Department of Human Resources is not aware of any relevant party actively urging rejection or adoption of the above rule amendments.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

N/A

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

The Tennessee Department of Human Resources does not anticipate a noted effect on state and local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Danielle Barnes, Deputy Commissioner and General Counsel of the Tennessee Department of Human Resources

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Danielle Barnes, Deputy Commissioner and General Counsel of the Tennessee Department of Human Resources

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Danielle Barnes, Deputy Commissioner and General Counsel
James K. Polk Building, 1st Floor
505 Deaderick Street
Nashville, TN 37243
(615) 253-8967
Danielle.Barnes@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-05-17
Rule ID(s): 6419-6431
File Date: 2/7/17
Effective Date: 5/8/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Department of Human Resources
Division: Office of General Counsel
Contact Person: Danielle Barnes, Deputy Commissioner and General Counsel
Address: James K. Polk Building, 1st Floor, 505 Deaderick Street, Nashville, TN
Zip: 37243
Phone: (615) 253-8967
Email: Danielle.Barnes@tn.gov

Revision Type (check all that apply):
X Amendment
__ New
X Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1120-01	Definitions
Rule Number	**Rule Title**
1120-01-.01	Definitions

Chapter Number	**Chapter Title**
1120-02	Employment Practices
Rule Number	**Rule Title**
1120-02-.03	Application for Employment
1120-02-.04	Request to Fill a Position
1120-02-.05	Assessments
1120-02-.06	Eligible List
1120-02-.07	Certification and Use of Eligible Lists
1120-02-.09	Non-Competitive Classifications
1120-02-.11	Appointments

1120-02-.12	Probationary Period
1120-02-.15	Tenure, Employee Reclassification, Suspension and Separation

Chapter Number	Chapter Title
1120-03	Classification
Rule Number	**Rule Title**
1120-03-.03	Classification Specifications

Chapter Number	Chapter Title
1120-04	Compensation
Rule Number	**Rule Title**
1120-04-.06	Involuntary Reduction in Rank
1120-04-.08	Employee Transfer and Lateral Reclassification
1120-04-.09	Rates Above Specified Salary Range
1120-04-.11	Salary Increases for Obtaining Professional Certification or College Degree
1120-04-.12	Longevity
1120-04-.15	Assigning Duties of Higher Level Classification
1120-04-.17	Merit Pay

Chapter Number	Chapter Title
1120-05	Performance Planning and Evaluation
Rule Number	**Rule Title**
1120-05-.01	Evaluations
1120-05-.02	Employees to be Evaluated
1120-05-.03	Evaluation Process
1120-05-.04	Use in Making Human Resources Decisions
1120-05-.05	Records
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Chapter Number	Chapter Title
1120-06	Attendance and Leave
Rule Number	**Rule Title**
1120-06-.04	Cash Overtime and/or Accrual of Compensatory Time
1120-06-.07	Rest Breaks
1120-06-.08	Break Time for Nursing Employees
1120-06-.10	Eligibility to Accrue Leave
1120-06-.11	Annual Leave
1120-06-.18	Military Leave
1120-06-.20	Parental Leave
1120-06-.22	Division of Claims Administration Leave

Chapter Number	Chapter Title
1120-07	Equal Employment Opportunities
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1120-07-.02	Agency Responsibilities
1120-07-.03	Department of Human Resources' Responsibilities

Chapter Number	Chapter Title
1120-08	Learning and Development
Rule Number	**Rule Title**
1120-08-.01	Learning and Development Provided by the Department
1120-08-.05	Continuing Education, Learning and Development
1120-08-.06	Continuing Education Units

Chapter Number	Chapter Title
1120-09	Programs Administered by the Department of Human Resources
Rule Number	**Rule Title**

1120-09-.01	Tennessee Employees' Charitable Campaign
1120-09-.02	Sick Leave Bank
1120-09-.04	Employee Suggestion Award Program

Chapter Number	**Chapter Title**
1120-10	Disciplinary Action
Rule Number	**Rule Title**
1120-10-.01	Discipline
1120-10-.04	Types of Disciplinary Actions

Chapter Number	**Chapter Title**
1120-11	Appeals
Rule Number	**Rule Title**
1120-11-.02	Responsibility
1120-11-.03	Basic Standards
1120-11-.04	Procedural Steps in Appeal
1120-11-.05	Attorney Fees

Chapter Number	**Chapter Title**
1120-12	Computation of Time
Rule Number	**Rule Title**
1120-12-.01	Computation of Time

Chapter Number	**Chapter Title**
1120-14	Tennessee Employee Mediation Program
Rule Number	**Rule Title**
1120-14-.01	Statement of Policy
1120-14-.02	Coverage
1120-11-.03	Process and Procedure
1120-11-.04	Training and Certification

Proposed Rules – Redline

Tennessee Department of Human Resources

Chapter 1120-01 Definitions

Redline Amendments

1120-01-.01 Definitions

1120-01-.01 Definitions. The following definitions shall apply to terms as they appear in these Rules, unless the context clearly requires otherwise:

(1) Act. Tennessee Excellence, Accountability, and Management ("T.E.A.M.") Act as codified in Tennessee Code Annotated, 8-30-101 et seq.~~.~~

(2) Active Pay Status. Term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank grants.

(3) Affirmative Action Protocols~~Plan~~. A statistical analysis,~~document~~ used with the Equal Employment Opportunity Plan that ~~which~~ identifies and analyzes patterns in the participation and utilization of women, minorities, individuals with disabilities, and veterans in the workforce ~~and minorities in the workforce~~.

(4) Agency. Any entity that employs and exercises authority over any employee in the state service in the executive branch.

(5) Appeal. A written complaint by a preferred employee concerning a disciplinary dismissal, demotion or suspension or by a state agency concerning a decision of the Commissioner in Step II of the appeals process.

(6) Applicant Assessment. An assessment designed to determine the qualifications, fitness, and ability of the applicant to perform the duties of the classification for which the applicant has applied. The assessment may consist of a written, oral, or physical exam, or a demonstration of skills, or any combination of such types. The assessment may also consist of an evaluation of education, experience, skill, ability, competency, knowledge, aptitude, capacity, character, and other qualifications as, in the judgment of the Commissioner or agency, may determine and measure the relative ability of the applicant.

(7) Appointing Authority. A commissioner, department, officer or agent having power to make appointments to, and separations from, positions in state service.

(8) Appointment. The official designation of a person to fill a position in the state service as an employee.

(9) Board. The Board of Appeals as established in T.C.A. § 8-30-108.

(10) Classification/Class of Positions. A group of positions sufficiently alike in duties, authority and responsibilities such that the same general qualifications may reasonably be required and the same schedule of pay equitably applied to all positions in the group.

(11) Classification Specification. A description of a classification, including classification title, summary, distinguishing features, examples of duties and responsibilities, minimum qualifications, necessary special qualifications, and assessment method.

(12) Commissioner. The Commissioner of the Department of Human Resources.

(13) Compensation Plan. A series of salary ranges to which a class of positions are assigned so that classifications evaluated as substantially equal are assigned to the same salary range.

(14) Demotion. The change of an employee to a position in a classification at a lower salary grade for causes related to performance of duties or conduct which affects an employee's ability to successfully fulfill the requirements of the job.

(15) Department. The Department of Human Resources.

(16) Dismissal. The termination from the state service of an employee for causes related to performance of duties or conduct which may affect an employee's ability to successfully fulfill the requirements of the job.

(17) Eligible. A person who has qualified for appointment to a position in the preferred service.

(18) Eligible List. A list of names of all qualified applicants for a position in the preferred service.

(19) Emergency Appointment. The appointment of a person to a position for a period, not to exceed one hundred twenty (120) days, in the event of an emergency.

(20) Equal Employment Opportunity Plan. A statistical document which identifies and analyzes patterns in the participation and utilization of women, minorities, individuals with disabilities, and veterans in the workforce.

(21)~~(20)~~ Executive Service. All positions in the state service not subject to the preferred service provisions of the Act.

(22)~~(21)~~ Executive Service Employee. An employee who holds a position in the executive service. Executive Service employees serve at the pleasure of the Appointing Authority and do not have the ability to appeal a suspension, demotion, or dismissal as defined in Rule 1120-11.

(23)~~(22)~~ Flex-Classification Position. A position in a classification series which may be filled with an employee qualified to perform the job at the trainee, intermediate or working level.

(24)~~(23)~~ Full-Time. A position or an employee budgeted for or scheduled to work a full-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually one thousand nine hundred and fifty (1,950) hours or more per year.

(25)~~(24)~~ Gross Misconduct. Any job related misconduct which may subject an employee to criminal prosecution.

(26)~~(25)~~ Initial Probation/Initial Probationary Period. The first probationary period an employee serves in an agency in a continuous period of employment prior to becoming a preferred employee in that agency.

(27)~~(26)~~ Interim Appointment. The appointment of a person to a position for a period not to exceed one (1) year.

~~(27) Involuntary Reduction in Rank. The change of an employee to a position in a classification at a lower salary grade as a result of a reduction in force or in compliance with T.C.A. § 8-30- 312.~~

(28) Lateral Reclassification. A change from a position in one classification to a position in another classification with the same salary grade and similar duties, authority responsibilities, and qualification requirements.

(29) Layoff. A separation of an employee from state service as the result of a reduction in force.

(30) Legal Residence. The county or state in which an individual's home is located and to which the individual plans to return if temporarily absent.

(31) Limited Term Appointment. The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited executive service appointments. Limited term appointments do not require the use of eligible lists~~.~~ and are not eligible to accrue sick and annual leave.

(32) List. A compilation of eligibles who may be appointed to positions in accordance with these Rules, such as appointment list, promotion list or layoff list.

(33) Major Portion of a Month. One-tenth (0.1) of one (1) hour over fifty percent (50%) of the regularly scheduled working hours.

(34) Manager. An employee who supervises, plans and coordinates the work of other supervisors or an employee who serves in a staff policy making or recommending capacity in an agency. ~~Managers may conduct and/or review performance evaluations.~~

(35) Non-Preferred Employee. Employees who fall outside the provisions of the Act and serve in one of the following appointment types: interim, emergency, part-time, seasonal, temporary, or temporary employment of retired state employees. Employees in this category do not become preferred service employees.

(36) Official Duty Station. The town, ~~or~~ city or location where the majority of the employee's duties are performed as designated by the agency.~~.~~

~~(37) Organizational or Business Unit. Any agency, board, commission, department, or subdivision recognized as a unit for purposes of administration.~~

(37)~~(38)~~Part-Time. A position or an employee budgeted or scheduled to work a part-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually less than fifteen hundred sixty (1,560) hours per year.~~sixteen hundred (1,600) hours per year.~~

(38)~~(39)~~Position. A job consisting of assigned duties, authority, and responsibilities typically performed by one (1) person.

(39)~~(40)~~Position Reclassification. A change in a job classification, typically resulting from a significant reassignment in job duties and responsibilities.

(40)~~(41)~~Preferred Service. All officers ~~offices~~ and positions of employment in the state service that have been placed under the preferred service provisions of the Act.

(41)~~(42)~~Preferred Service Employee. An employee who holds a position in an agency in the state service, in which the employee has successfully completed the requisite probationary period.

(42)~~(43)~~Probationary Period. A period of at least twelve (12) months' duration used to provide an employee with the opportunity to demonstrate ability to successfully adhere to the standards of performance and expected work outcomes required for the position.

(43)~~(44)~~Promotion. The change of an employee to a position in a classification at a higher salary grade.

(44)~~(45)~~Reallocation/Reallocated. A change from one classification to a new or existing classification based on a change in the nature or structure of the classification plan.

(45)~~(46)~~Reduction in Force. Any job action due to a lack of funds, a reduction in spending authorization, lack of work, efficiency or other material change in duties or organization that may result in the layoff of one or more preferred service employees.

(46)~~(47)~~Referred List. The document or record containing the names of the applicants meeting minimum qualifications for a class of positions for consideration by an Appointing Authority in filling a vacancy.

(47)~~(48)~~Regular Appointment. The appointment of a person to a regular position in either the preferred or executive service for an indeterminate period of time.

(48)~~(49)~~Regular Position. A position which is funded on an annual basis and is expected to continue to receive funding.

(49)~~(50)~~Salary Grade. A numeric/alpha value which defines the level of the job classification and designates the salary range for a class of positions.

(50)~~(51)~~Salary Range. The minimum to the maximum rates of pay established for a class of positions.

(51)~~(52)~~Seasonal Part-Time. A part-time position which is funded for a specific period of time, typically scheduled to work for a certain period and generally not exceeding thirty (30) hours per week or fifteen hundred sixty (1,560) hours per year.~~Seasonal Appointment. A part-time appointment of a person for an indeterminate period of time, typically scheduled to work for a certain period and generally not exceeding sixteen (1,600) hours per year.~~

(52)~~(53)~~Seasonal Full-Time. A full-time position which is funded for an indeterminate amount of time, typically less than one (1) year, and is expected to continue to receive funding. These employees work thirty (30) hours or more per week, but shall work less than nineteen hundred fifty (1,950) hours per year.~~Seasonal Position. A part-time position which is funded for a specific period of time, typically less than one (1) year, and is expected to continue to receive funding. These employees are considered to be non-preferred employees.~~

(53)~~(54)~~Sick Leave Bank. A pool of sick leave hours donated by member employees for use by qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine.

(54)~~(55)~~State. The State of Tennessee.

(55)~~(56)~~State Employee. A person employed in a position in state government. For the purposes of these Rules only, "state employee" excludes employees of state universities and local education agencies.

(56)~~(57)~~State Service. All officers and positions of trust or employment in the executive branch and all boards, commissions and agencies in state government except those specifically excluded by the Act.

(57)~~(58)~~Supervisor. An employee who oversees, directs, or manages the work, work flow, or employees in the performance of their daily duties. A supervisor shall be physically present in Tennessee while supervising employees working within Tennessee unless business reasons require out-of-state travel. Supervisors may conduct and/or review performance reviews/evaluations.

(58)~~(59)~~Suspension. An enforced leave of absence for disciplinary purposes for such length of time as the appointing authority considers appropriate, not exceeding thirty (30) days in any twelve (12) month period.

(59)~~(60)~~Temporary Appointment. The appointment of a person to a preferred service position for a temporary period, not to exceed six (6) months, until an appropriate list has been established by the Department.~~Terminal Leave. The annual leave balance of a retiring employee. Any leave balance remaining after the employee's last actual workday is considered terminal leave.~~

(60)~~(61)~~Temporary Staffing Service. The utilization of a temporary staffing service vendor having a contract with the State managed by the Central Procurement Office (CPO) within the Department of General Services to provide short-term temporaries to perform the duties, for a period not to exceed ninety (90) days, of an existing preferred service position. Temporaries are not considered employees of the State. ~~Termination. Any action taken that officially separates an employee from the state service. This includes employees who elect to resign, retire, or who are dismissed from the state service.~~

(61)~~(62)~~Terminal Leave. The annual leave balance of a retiring employee. Any leave balance remaining after the employee's last actual workday is considered terminal leave.~~Temporary Appointment. The appointment of a person to a preferred service position for a temporary period, not to exceed six (6) months, until an appropriate list has been established by the Department.~~

(62)~~(63)~~Termination. Any action taken that officially separates an employee from the state service. This includes employees who elect to resign, retire or who are dismissed from the state service. ~~Temporary Staffing Service. The utilization of a temporary staffing service vendor having a contract with the State to provide short-term temporaries to perform the duties, for a period not to exceed ninety (90) days, of an existing preferred service position.~~

(63)~~(64)~~Time Period. Time period for most employees is defined as the work week beginning on Sunday and ending Saturday.

(64)~~(65)~~Transfer. A change from one position in a classification to another position in the same classification.

(65)~~(66)~~Voluntary Reduction in Rank. The change of an employee to a position in a classification at a lower salary grade based on an employee's request and the concurrence of the Appointing Authority.

(66)~~(67)~~Workday. A scheduled day of work exclusive of holidays or other authorized leave days.

Authority: T.C.A. § 8-30-101, et seq.

Chapter 1120-02

Employment Practices

Redline Amendments

1120-02-.03 Application for Employment.

(1) Applying for Positions in the Preferred Service. All applications for employment in preferred service positions shall be made in a manner prescribed by the Commissioner.

(2) Disqualification of Applicants. The Commissioner may strike the name of a person from the list, if the Department determines that the applicant:

(a) is found to lack any of the required minimum qualification requirements established for the position;

(b) has previously been dismissed from state service for cause or gross misconduct;

(c) has willfully or intentionally submitted false information or documents in support of any application or has intentionally omitted information in any application which materially affects eligibility for employment consideration;

(d) has committed or attempted to commit a fraud or deception in connection with submitting an application or attempting to secure an appointment to state service;

(e) has used or attempted to use political pressure or bribery to secure an advantage in assessment or appointment;

(f) has directly or indirectly obtained information regarding an assessment to which the applicant was not entitled;

(g) has failed to submit an application correctly or within the prescribed time limit;

(h) has taken part in the compilation, administration, or correction of the assessment; or

(i) has otherwise violated provisions of this Rule or related policies established and distributed by the Commissioner.

(3) Notice of Removal from Eligible List. An applicant who is removed from a list for any reason shall be notified in writing within ten (10) business days of removal. An applicant may submit additional information and/or documentation to clarify any discrepancies within a time prescribed by the Commissioner to avoid removal from an eligible list.

(4) Equal Employment Opportunities. The provisions of this section shall be administered consistent with the State's equal employment opportunities policies and obligations. All actions taken pursuant to this chapter shall be in strict compliance with all applicable state and federal civil rights laws.

Authority: T.C.A. §§ 8-30-101, 8-30-104, 8-30-105, 8-30-301, 8-30-303, 8-30-304, and 8-30-305.

Rule 1120-02-.04 Request to Fill A Position. Whenever an Appointing Authority proposes to fill a position in the preferred service, the authority shall submit to the Commissioner a statement showing the position to be filled, the duties for such position, the official duty station, the minimum qualifications, and preferred

skills, abilities, competencies and knowledge of the person to be appointed. The statement shall also specify whether the position will be filled by an internal state candidate, justifying the reason(s) for posting the vacancy as promotional.

Authority: T.C.A. §§ 8-30-306.

1120-02-.05 Assessments.

(1) Notice of Assessments. The Commissioner shall give public notice of all assessments, at least one (1) week in advance of the closing date for receipt of applications, by posting notices throughout the State. Public notice of assessments shall specify the job title, minimum salary for the position, the minimum or preferred qualifications, the final date on which applications will be received, and other conditions of assessment necessary for the position.

(2) Evaluating Assessments. The Commissioner shall determine whether an applicant meets the minimum qualifications for the position. Applicants who meet the minimum qualifications shall be approved for placement on an eligible list.

(3) Determining Minimum Qualifications. The Commissioner shall establish a procedure for the evaluation of the education, training, and experience qualifications, including licenses, certifications, approved Continuing Education Units (CEU's), and other factors as deemed appropriate by the Commissioner.

(4) Admission to Assessments. Assessments shall be open to all persons who meet the minimum qualifications and requirements specified in the respective public notices. Each applicant admitted to an assessment shall be notified of the time, date and place of the assessment. The Commissioner may request additional documentation from the applicant prior to the assessment.

(5) ~~Conducting~~ Written Assessments. A written assessment will be approved by the Appointing Authority ~~Commissioner~~ with every precaution taken to prevent unauthorized persons from gaining knowledge of the nature or content of the tests. Written assessments shall be conducted in locations that are practical for proper administration. All applicants admitted to a written assessment shall adhere to the respective Department's established testing rules and procedures. The Appointing Authority ~~Commissioner~~ may take any appropriate action, up to and including criminal prosecution, against applicants who do not adhere to these established rules and procedures.

(6) Employees in Positions Added to the Preferred Service. If an executive service position is reassigned to the preferred service, the incumbent employee may, within one (1) year, be given an assessment in a manner prescribed by the Commissioner.

(7) Oral Assessments. When an oral evaluation is part of the assessment method for a position or class of positions, the Commissioner shall work with the Appointing Authority in establishing the examiners as needed.

(8) Notice of Assessment Results. The Commissioner shall notify each applicant in writing of the results of the assessment as soon as practicable. A manifest error in the assessment shall be corrected, if called to the attention of the Commissioner no later than one (1) month after the establishment of the list of eligibles. The correction, however, will not invalidate any appointment previously made from such list.

(9) Rescheduling Assessments. When an applicant is unable to appear for a written assessment, the applicant may, upon satisfactorily showing the cause of his failure to

appear, be granted permission by the Commissioner to take the written assessment at a later date.

(10) Working Test Period. With input from the Division of Rehabilitation Services, Department of Human Services, the Commissioner may substitute a working test period in lieu of a written assessment for an applicant with a disability. The test period shall not exceed one (1) year. The work test period runs concurrently with the employee's probationary period as defined in 1120-02-.11.

(11) Investigations. The Commissioner or any Appointing Authority may investigate an applicant's education, credentials, training, and experience to verify the statements contained in the application form or to verify statements regarding the applicant's character and fitness. If this investigation shows any falsification, including false information or documents submitted in support of any application or intentionally omitted information in any application which materially affects eligibility for employment consideration, the applicant may be removed from consideration for employment or, if employed, may be dismissed and disqualified from future positions ~~assessments.~~ Lesser discrepancies in applicant information may result in a reevaluation of the assessment if necessary.

(12) Assessment Records. The Commissioner shall maintain all records pertinent to an assessment program. The retention of applications and other necessary assessment records shall be maintained as prescribed by law.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-301, 8-30-302, 8-30-303, 8-30-304, and 10-7-504.

1120-02-.06 Eligible List.

(1) Establishment of Eligible List. Upon request by the Appointing Authority, the Commissioner shall establish an eligible list for preferred service job classifications within a time prescribed by the Commissioner. The Commissioner shall establish and maintain lists of eligibles to meet the needs of the service.

(2) Supplementing Eligible Lists. The Commissioner shall routinely review existing eligible lists to determine whether there are an adequate number of eligibles available to meet the needs of the service. When the Commissioner determines that a particular eligible list is inadequate or is likely to become inadequate, the Commissioner may order a supplemental assessment for the class of positions. The public announcement for supplemental assessments shall give notice of the dates when applications will be accepted and, when applicable, when written assessments will be administered.

~~Eligible lists for job classifications assessed on a continuous basis are supplemented as applicants are evaluated.~~

(3) Duration of Eligible Lists. At the time a list of eligibles is established, the Commissioner shall determine the period during which such list shall remain in force. Subject to the limitations of the Act and these Rules, the Commissioner may consolidate or cancel an eligible list at any time after it has been established.

(4) Removal and Notification of Names from an Eligible List. Any applicant whose name is removed from an eligible list for any reason shall receive written notice of such action within ten business (10) days of the date of removal.

(a) The name of an eligible may be removed or made inactive on an eligible list for a class of positions for any of the following:

(1.) an eligible receives a regular appointment to a vacancy in that class of positions;

(2.) an eligible declines an employment offer for the announced position;

(3.) an eligible fails to respond within five (5) calendar days of the date of an invitation to interview;

(4.) an eligible cannot be located;

(5.) an eligible falsifies any material fact~~his legal residence~~;

(6.) an eligible has been convicted of a crime related to the position or class of positions for which he or she has applied; or

(7.) any cause occurs as specified in the Act or Rules regarding the rejection or disqualification of applicants.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-305, and 8-30-306.

1120-02-.07 Certification and Use of Eligible Lists.

(1) Certification of an Eligible List. The Commissioner shall certify an eligible list containing applicants meeting the minimum qualifications for the position to be filled by the requesting agency.

(2) Referred List. Upon the request of the Appointing Authority, the Commissioner may establish employment, promotional, statewide, departmental, divisional, unit or any other list of eligibles deemed necessary or appropriate. The Commissioner shall issue a policy that agencies may use in establishing referred lists.

(3) Request for Certification. When a vacancy occurs in one (1) or more established positions in a classification in the preferred service, the Appointing Authority may request a list to fill the position(s) in a manner prescribed by the Commissioner.

(4) Methods of Certification. The Commissioner shall certify to the Appointing Authority the names of eligibles from the appropriate referred list for the classification. When requesting a referred list for a flex-classification position, the Appointing Authority may request a referred list for the trainee, intermediate or working level classifications.

(5) Interviewing Candidates from a Referred List. If three (3) or more applicants are on the list of eligibles, the Appointing Authority shall offer an invitation to interview a minimum of three (3) applicants from the referred list of eligible. If less than three (3) applicants are on the list of eligibles, the Appointing Authority shall invite each person on the list to interview.

(6) Veterans' Preference. When invitations to interview candidates are extended, whether for appointment or promotion, and the list contains eligible Veterans or Veteran spouses in compliance with T.C.A. § 8-30-307, such persons shall be invited to interview. If a Veteran is on the list of eligibles, and if the minimum qualifications and the skills, abilities, competencies and knowledge of the Veteran and any another applicant being interviewed for the position are equal, preference shall be given to the Veteran for the position. The Department shall adopt a policy pertaining to Veterans' preference.

(7) Appointment from a Referred List. Within thirty (30) days after being referred a list of eligibles, the Appointing Authority may appoint one (1) of the applicants on the list of

eligibles. If no appointment is made from a referred list, the list shall expire upon the thirty-first (31st) day.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-306, and 8-30-307.

1120-02-.09 Non-Competitive Classifications. For positions involving certain~~basic~~ clerical, unskilled or semi-skilled labor, domestic, attendant or custodial work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the provisions of the Act, the Commissioner may adopt, or authorize the use of, such other procedures as the Commissioner determines to be appropriate in order to meet the needs of the service.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-311.

1120-02-.11 Appointments.

(1) Regular Appointment. A regular appointment is an appointment to either a preferred, non-preferred or executive service position for an indeterminate period of time. A regular appointment is expected to continue contingent upon satisfactory performance and conduct~~behavior~~ by the employee and upon continued funding, classification and utilization of the position by the State. In the executive service, a regular appointment is at-will and continues at the pleasure of the Appointing Authority.

(2) Emergency Appointment. An emergency appointment is an appointment to a full-time preferred service position for a period of service not to exceed one hundred twenty (120) days and may be made when conditions exist that necessitate an immediate short term appointment. An emergency appointment may not be renewed, and no person may receive more than one (1) emergency appointment in a twelve (12) month period. Emergency appointments do not require the use of eligible lists, however, emergency appointees shall meet the minimum qualifications for the class of positions appointed. Time served in an emergency appointment does not constitute creditable service for sick and annual leave accrual or service credit except for the purpose of longevity payments, if applicable. Emergency appointments are not eligible for participation in the state insurance plan, but may be eligible for participation in the Tennessee Consolidated Retirement System (TCRS) as outlined in TCRS rules and policies.

(3) Interim Appointment. Based on written justification submitted by an Appointing Authority, the Commissioner may approve an interim appointment for a period not to exceed one (1) year. Based on written justification submitted by an Appointing Authority, the Commissioner may approve an extension, up to one (1) year, if the Commissioner determines that such an extension is in the best interest of the State.

To be eligible for an interim appointment, the employee shall meet the minimum qualifications for the job classification to which the employee is appointed. If the interim appointment is made using a referred list, the Appointing Authority may grant the employee a regular appointment in the position using the referred list from which the interim appointment was made. Interim employees accrue leave under T.C.A. § 8-50-101, et seq. Interim employees are not considered to be in the preferred service.

(4) Seasonal Appointment. Seasonal appointments do not require the use of eligible lists. Seasonal employees are not considered to be in the preferred service.

(5) Temporary Appointment. A temporary appointment is the appointment of a person to a preferred service position for a temporary period until an appropriate list has been established. The term of a temporary appointment shall not to exceed six (6) months.

Temporary employees accrue leave under T.C.A. § 8-50-101, et seq. Temporary employees are not considered to be in the preferred service.

(6) Limited Term Appointment. The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited-term appointments pursuant to statute. Limited term appointments do not require the use of eligible lists and are classified as executive service. Limited Term appointments do not accrue sick or annual leave.

(7) Temporary Employment of Retired State Employees. Retired State employees may temporarily return under certain conditions as outlined in the temporary employment form obtained from the Retirement Division of the Treasury Department. The retired employee may accept employment with a covered employer for up to one hundred twenty (120) days during a twelve (12) month period. These employees accrue leave under T.C.A. § 8-50-101, et seq., but are not considered to be in the preferred service.

(8) Appointments to Flex-Classification Positions. To fill the vacancy of a flex-classification position, the Appointing Authority shall request from the Commissioner a referred list of applicants for either the trainee level classifications or the working level classification. Any eligible appointed to a flex-classification position from the referred list for either the trainee or working level classification shall serve a period of probationary employment as prescribed by the Commissioner for the classification. During the last month of the probationary period, the Appointing Authority shall certify to the Commissioner whether the employee has successfully completed the period of probationary employment and should, therefore, become a preferred employee in the position in the working level classification without further assessment or certification. The employee shall be removed from the position if the probationary period is not successfully completed. Such notification should be made in the same manner as prescribed for any other period of probationary employment.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-201, 8-30-202, 8-30-308, 8-30-309, and 8-30-310.

1120-02-.12 Probationary Period.

(1) Purpose of the Probationary Period. The probationary period is an essential part of the employment process used for the adjustment of an employee to a new position and to provide an employee with the opportunity to demonstrate to the appointing authority the employee's ability to perform the defined work outcomes and behavior expectations.

(2) Probationary Period for the Preferred Service.

(a) For preferred service positions, a probationary period of at least twelve (12) months is required for all employees who receive regular appointments from a referred list. An Appointing Authority also has discretion to impose a probationary period for employees who receive regular appointments through demotion, voluntary reduction in rank, or interdepartmental transfers.

(b) The probationary period for a regular appointment may be reduced by the amount of time served in an emergency or interim appointment provided the appointment is for the same Appointing Authority in the same classification of positions and there is no break in service.

(c) Non-preferred employees do not serve a probationary period.

(d) Successful completion of a probationary period in a trainee or intermediate level classification satisfies the probationary period requirement necessary for a preferred employee when the position is deemed to be the working level classification.

(3) Duration of the Probationary Period. A period of probation is completed at the close of business or shift on the day the employee completes the number of months of probation required.

(4) Initial Probationary Period.

(a) Every person appointed to a position in the preferred service shall be subject to a probationary period of employment. The probationary period shall commence immediately upon appointment and shall continue for such time, not less than one (1) year, as shall be established by the Commissioner. At any time during the employee's probationary period the Appointing Authority may remove the employee if, in the opinion of the Appointing Authority, the employee's performance or conduct during the probationary period indicates that such employee is unable or unwilling to satisfactorily perform or is not satisfactorily performing the defined work outcomes and behavior expectations, or that the employee's habits, dependability, or conduct do not merit continuance in the service.

(b) During the last month of an employee's probationary period, the Appointing Authority shall notify the Commissioner in writing whether the performance and conduct of the employee have been satisfactory and whether continued employment is recommended.

~~(5) Subsequent Probationary Period. A preferred service employee who accepts another preferred service position in the same agency shall serve a subsequent probationary period for a period of time, not less than one (1) year. Employees serving a subsequent probationary period have the ability to appeal a suspension, demotion, or separation as described herein, except when a demotion returns to the employee to his or her former classification.~~

~~(6)~~(5) Promotion During Probation. The probationary period for the classification of positions to which an employee on probation is promoted begins with the date of appointment to such higher classification.

~~(7)~~(6) Working Test Period. The probationary period for an employee with a disability who is granted a substitution of the written and/or performance assessment shall run concurrently with the working test period as defined in Rule 1120-02-.04.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-201, 8-30-303, and 8-30-308.

1120-02-.15 Tenure, Employee Reclassification, Suspension, and Separation.

(1) Tenure of Office. The service of preferred employees is contingent on both satisfactory performance and satisfactory conduct. Satisfactory performance is evidenced by the employee's record of performance. This provision, however, does not prevent the layoff of an employee in accordance with a reduction in force plan approved by the Commissioner.

(2) Suspension. An Appointing Authority shall provide written notice upon suspending a preferred employee without pay for disciplinary purposes. Cumulative suspensions

without pay shall not exceed thirty (30) work days in a twelve (12) month period. With approval from the Commissioner, an Appointing Authority may suspend an employee without pay for a period greater than thirty (30) work days, pending the appeal or the processing of an appeal or investigation. The agency shall place a copy of the written notice of the suspension in the employee's human resources file.

(3) Reduction in Force. After written notice to the Commissioner, an Appointing Authority may implement a reduction in force, in accordance with the provisions of the Act. The Commissioner shall establish policies pertaining to reduction in force procedures.

(4) Resignations. An employee who resigns shall state the reasons in writing to the Appointing Authority. To resign in good standing, the employee shall provide the resignation at least ten (10) business days prior to the effective date of separation, unless such period is waived by the Appointing Authority or Commissioner, who shall notify the Commissioner in writing. Any employee who does not provide such notice may be designated as having resigned not in good standing.~~not eligible for rehire within that agency.~~ A copy of the resignation shall be placed in the employee's human resources file.

(5) Job Abandonment. Any employee who is absent from duty for more than three (3) consecutive work days without giving prior written or electronic notice to the appointing authority or appropriate manager that specifies the reason for such absence, and without securing permission to be on leave, or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) work days after the expiration of any authorized leave of absence, is considered as having resigned not in good standing, absent extenuating circumstances beyond the control of the employee causing the employee's absence or preventing the employee's return. An employee deemed to have resigned in accordance with these circumstances shall have the ability ~~right~~ to appeal such action through the appeal procedure described herein.

(6) Dismissal. An Appointing Authority may dismiss a preferred employee for either unsatisfactory performance or unsatisfactory conduct. Executive service employees are atwill employees who serve at the pleasure of the Appointing Authority and do not have the ability to appeal a dismissal.

(7) Designation of Rehire Eligibility~~Re-employment Recommendation~~. When an employee separates from the state service through retirement, resignation, or dismissal, the Appointing Authority shall make a designation concerning the employee's ability to be rehired in the state service. All separating employees designated as ineligible for rehire statewide shall be informed in writing by the Appointing Authority of the designation and its effect on future employment in state service.~~leaves State government, the Appointing Authority may make a recommendation concerning re-employment. All separating employees not recommended for re-employment shall be informed in writing by the Appointing Authority of the recommendationand its effect on future employment in the state service.~~

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-314, 8-30-315, and 8-30-316.

Chapter 1120-03

Classification

Redline Amendments

1120-03-.03 Classification Specifications. Classification specifications for the preferred service include at a minimum the following:

(1) classification title;

(2) summary;

(3) distinguishing features;

(4) examples of duties and responsibilities;

(5) minimum qualifications;

(6) necessary special qualifications; and

(7) knowledge, skills, abilities, and competencies.~~assessment knowledge.~~

Authority: T.C.A. § 8-30-203.

Chapter 1120-04

Compensation

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1120-04-.05	Demotions	1120-04-.15	Assigning Duties of a Higher Level Classification
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~~1120-04-.06~~ Repealed. ~~INVOLUNTARY REDUCTION IN RANK. Unless otherwise specified by law, the Commissioner may approve an Appointing Authority's recommendation that an employee who receives an involuntary reduction in rank be paid at a rate above the range maximum for the new classification or the employee's salary be reduced to the maximum of the salary range for the new classification. Unless otherwise specified by law and subject to budgetary limitations, the salary of an employee who receives an involuntary reduction in rank may not be reduced if it falls within the salary range of the lower classification.~~

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-207, and 8-30-312.

1120-04-.08 Employee Transfer and Lateral Reclassification. An employee who is transferred shall not generally receive a salary change as a result of such action. An employee who is laterally reclassified may~~shall not~~ receive a salary increase up to five percent (5%) based on the availability of funding by the agency and ensuring the range maximum is not exceeded by the new salary.~~unless the lateral reclassification results in a career path change as determined by the Commissioner. Those making a career path change may receive a one (1) step salary increase as long as agency funds are available and the employee's salary does not exceed range maximum.~~

Authority: T.C.A. §§ 8-30-104 and 8-30-312.

1120-04-.09 Rates Above Specified Salary Range. The Commissioner may approve payment at a rate above that assigned to the employee's position in the compensation plan when he or she determines it to be in the interest of the state. Employees who receive salary adjustments required by law or who receive salary differentials authorized by these Rules may be paid at a salary rate higher than the maximum of the salary range of their classification. Employees who receive a reduction in rank may have a salary rate above the maximum if recommended by the Appointing Authority and approved by the Commissioner. Such employees are eligible for longevity pay and other increases as specified by law or rule, if otherwise eligible.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-207.

1120-04-.11 Salary Increases for Obtaining Professional Certification or College Degree. Subject to budgetary limitations, any employee who obtains a nationally recognized professional certification or a college degree from an accredited college or university within their occupational field may be eligible for a salary increase as approved by both the Commissioner and the Commissioner of Finance and Administration. Any administrative assistant or administrative professional or any employee performing closely related administrative support duties of the state who successfully passes the certified administrative professional examination sponsored by the International Association of Administrative Professionals shall be granted ~~clerical-secretarial or clerical-management employee in the state service who passes all parts of either the Certified Professional Secretary Examination or the Certified Administrative Professional Examination, sponsored by the International Association of Administrative Professionals shall be granted~~ the salary increase as outlined in T.C.A. § 8-50-102 and policy.

Authority: T.C.A. § 8-50-102.

1120-04-.12 Longevity. ~~Longevity is a lump sum payment intended to reward employees for service to the State and to encourage those employees to remain employed by the State.~~ The Commissioner shall establish a policy concerning the calculation and payment of longevity. Employees of the executive branch in the state service, as defined by T.C.A. § 8-30-102, hired after June 30, 2015, are not eligible to receive longevity pay.

Authority: T.C.A. § 8-23-206.

1120-04-.15 Assigning Duties of a Higher Level Classification. No preferred service employee shall be assigned to perform the majority of the duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the Appointing Authority. When an employee is so assigned, the duration shall not~~cannot~~ exceed ninety (90) days without the approval of the Commissioner. The total length of the assignment shall be limited to a period of twelve (12) months.

The Commissioner, in consultation with the Commissioner of Finance and Administration, shall establish a policy under which an employee who is assigned to perform the majority of the duties and responsibilities of a higher level classification shall receive additional compensation for such assignment.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-209.

1120-04-.17 Performance~~MERIT~~ Pay. The Commissioner shall establish guidelines to govern the distribution of any funds which may be available for performance~~merit~~ pay for members of the state service.

(1) The guidelines shall establish objectively measurable criteria, which ensure that the performance~~merit~~ pay system:

(a) rewards above-average performance;

(b) improves efficiency;

(c) encourages participation in programs that improves job performance and skills; and

(d) does not permit, facilitate or promote discrimination on account of race, color, national origin, gender, age, disability, religion or creed, V~~v~~eteran's status or political opinions or affiliations.

(2) Such guidelines shall also provide that performance~~merit~~ pay funds are consistently distributed in a fair and equitable manner.

(3) All employees shall be eligible for performance~~merit~~ pay if the employee satisfies the criteria established in the guidelines.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-207.

Chapter 1120-05

Performance Management~~PLANNING AND EVALUATION~~

Redline Amendments

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1120-05-.01	Performance Reviews ~~Evaluations~~	1120-05-.05	Records
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1120-05-.04	Use in Making Human Resources Decisions	1120-05-.08	Repealed
		1120-05-.09	Repealed

1120-05-.01 Performance Reviews~~EVALUATIONS~~. Each agency shall provide written plans detailing the standards of performance and the expected outcomes for all employees and shall periodically ~~evaluate~~ review the results on dates and in such manner as prescribed by the Commissioner.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.02 Employees to be ~~EVALUATED~~Reviewed. The performance of all employees in the state service shall be reviewed~~evaluated~~ in a manner subject to this Rule and the policies of the department.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.03 ~~EVALUATION PROCESS~~Performance Management Review Process. An agency shall conduct, at a minimum, the following performance review ~~evaluation~~ procedure for eligible employees:

(1) Individual Performance Plan. The supervisor and the employee shall have an initial discussion for the purpose of explaining and clarifying the performance ~~evaluation~~ management process, defined work outcomes and behavioral expectations for which performance shall be ~~evaluated~~reviewed, and the expected performance necessary to maintain or achieve an acceptable rating. Defined employee work outcomes and behavior expectations shall be specific, measurable, achievable, relevant to the strategic objective of the employee's state agency or division and time sensitive.

(2) Periodic Reviews. Supervisors shall provide periodic reviews of performance to provide constructive feedback, discuss means of enhancing performance results and, if appropriate, to discuss the consequences of unsatisfactory performance. Employees shall receive a minimum of two (2) periodic reviews during the review cycle. Agencies may utilize a talent management review discussion as a periodic review if approved by the Department at the beginning of the Performance Management cycle.

(3) Annual Review~~Evaluation of Performance~~. Employees shall receive an annual ~~formal~~ written review~~evaluation~~ of the expected performance standards at the end of the performance cycle which grants the employee the opportunity to comment.

(4) ~~Official Review. An official review of the performance evaluation shall occur in accordance with policy. Once approved, the evaluation becomes the record of the employee's performance.~~

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.04 Use in Making Human Resources Decisions. Performance reviewsevaluations may be used as follows:

(1) to determine salary increases and decreases within the limits established by the compensation plan;

(2) as a factor in making or denying promotions; and

(3) as a means of determining employees:

(a) who are candidates for promotion or transfer; or

(b) who, because of a low job performance reviewsevaluation, are candidates for demotion, suspension, dismissal or reduction in force.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.05 Records. Each agency shall record the performance reviewevaluation of each employee in a manner prescribed by the Commissioner. Performance evaluations of all employees shall not be considered public records under T.C.A. § 10-7-503. Nothing in this section shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.06 Training. Each supervisorThe Appointing Authority shall ensure that persons responsible for conducting and/or reviewing the performance evaluation of any employee shall complete alla training programs specified by the Commissioner as set forth in the policy.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

1120-05-.07 Administrative Review. An employee who receives a completed annual performance reviewevaluation may file a request for administrative review based on procedural violations as follows:

(1) Appointing Authority. Within fourteen (14) calendar days of receipt of the annual reviewevaluation, an employee may file a written request for administrative review, along with all relevant documentation, to the Appointing Authority. The Appointing Authority shall respond in writing to the employee within fifteen (15) calendar days of receipt of the request.

(2) Department Administrative Review. Within fourteen (14) calendar days of the receipt of the Appointing Authority's written decision, an employee may file a written request for administrative review, along with all relevant documentation, to the Commissioner. The Commissioner shall issue a written response within fifteen (15) calendar days. The decision of the Commissioner shall be final and not subject to further review. Performance scores are not eligible for administrative reviews.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-313.

Chapter 1120-06

Attendance and Leave

Amendments Redline

1120-06-.01	Responsibility	1120-06-.15	Holidays
1120-06-.02	Regular Work Schedule Workweek	1120-06-.16	Civil Leave
		1120-06-.17	Educational Leave
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1120-06-.05	Compensatory Time	1120-06-.20	Parental Leave
1120-06-.06	Lunch Period	1120-06-.21	Family and Medical Leave Act
1120-06-.07	Rest and Wellness Breaks	1120-06-.22	Division of Claims Administrative Leave
1120-06-.08	Break Time for Nursing Employees ~~Mothers~~	1120-06-.23	Terminal Leave
1120-06-.09	Absence Due to Specific Circumstances	1120-06-.24	Accrued Leave Balances Paid at Death
1120-06-.10	Eligibility to Accrue Leave	1120-06-.25	Paid Leave for Excused Absences
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1120-06-.12	Sick Leave	1120-06-.26	Responsibility for Records and Reports
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1120-06-.14	Special Leave		

1120-06-.04 Cash Overtime and/or Accrual of Compensatory Time]. The Fair Labor Standards Act (FLSA) mandates that non-exempt employees receive additional compensation in certain circumstances. In addition, T.C.A. § 8-23-201 provides that additional compensation may be paid to certain state employees who work in excess of regularly scheduled hours at the direction of an appropriate manager. The Commissioner shall establish policy and procedures for administering overtime payments to include the following:

(1) Exempt Non-Compensatory Time Employees. Employees defined as "exempt non-compensatory time" by the Commissioner shall not be eligible to receive any compensation for hours worked beyond their regular schedule. However, if an exempt non-compensatory time employee is scheduled to work on a legal holiday, the Appointing Authority may grant discretionary leave with pay equal to the hours worked on a legal holiday.

(2) Exempt Employees. Employees defined as "exempt" by the FLSA may receive regular compensatory time for hours worked beyond their regular schedule provided that it was at the direction of the Appointing Authority or other appropriate supervisor or manager. The Commissioner shall determine the exempt classifications that are eligible for this regular compensatory time. Exempt employees may accumulate a maximum of four hundred and eighty (480) hours of regular compensatory time. Regular compensatory time is earned on an hour-for-hour basis and is distinct from premium compensatory time authorized by the FLSA.

(3) Non-Exempt Employees. Employees defined as "non-exempt" by the FLSA shall receive premium compensation for all hours spent performing the principal duties assigned to them provided the assignment was at the direction of the Appointing Authority or other appropriate supervisor or manager. Non-public safety employees who are non-exempt may accumulate no more than two hundred and forty (240) hours of premium compensatory time. Their total compensatory time (regular and premium compensatory time) may not exceed four hundred and eighty (480) hours. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory time.

(4) Exceptions. Individual exceptions to this rule shall be recommended by the Appointing Authority and approved in advance by the Commissioner and the Commissioner of Finance and Administration. Such recommended exceptions shall be consistent with state and federal law and established after consultation with the Comptroller of the Treasury and the Attorney General's Office.

Authority: T.C.A. §§ 8-23-201, 8-30-104, 8-30-105, 8-30-208, and 29 U.S.C. § 201, et seq.

1120-06-.07 Rest and Wellness Breaks. Appointing authorities, at their discretion, may allow their employees two (2) rest or wellness breaks, of fifteen (15) minutes duration each, during a workday. These rest or wellness breaks are a privilege and not a right and should be taken at times that do not interfere with service to the public. A rest or wellness break shall not be used to alter arrival or departure time, used in conjunction with the lunch hour, used with any type of leave, or be accumulated for usage at a later time. Wellness breaks can be combined into one (1) thirty (30) minute break with the approval of employee's supervisor.

Authority: T.C.A. §§ 8-30-104, 8-30-105, and 8-30-406.

1120-06-.08 Break Time For Nursing Employees~~Mothers~~. An employee who needs to express breast milk for the nursing child shall be allowed a reasonable break time and a space to do so that is not a bathroom, is shielded from view, and is free from intrusion from coworkers and the public. Break time for nursing employees~~mothers~~ shall, if possible, run concurrently with any break time already provided to the employee ~~be allowed in addition to other breaks provided for in the law~~ and shall not be used to alter the employee's scheduled arrival or departure time.

Authority: T.C.A. §§ 4-4-105, 8-30-215, 50-1-305, and Patient Protection and Affordable Care Act (P.L. 111-148).

1120-06-.10 Eligibility to Accrue Leave. An eligible employee accrues annual and sick leave based upon hours worked, excluding overtime, pursuant to T.C.A. § 8-50-801 and T.C.A. § 8-50-802.

Leave is accrued on a regular workday basis. One day of leave is equivalent to seven and one-half (7.5) hours for employees on a thirty-seven and one-half (37.5) hour per workweek schedule. One day of leave is equal to eight (8) hours for employees on a forty (40) hour per workweek schedule. Employees on other workweek schedules as approved by the Commissioner accrue based on those schedules.

Employees changing from one schedule to another shall have their hourly balances adjusted accordingly.

Employees who work fifteen hundred sixty (1,560) ~~sixteen hundred (1,600)~~ hours in a year and work the major portion of the month are eligible to accrue leave, except for those listed in T.C.A. § 8-50-801(e).

Authority: T.C.A. §§ 8-23-101, 8-50-801, and 8-50-802.

1120-06-.11 Annual Leave. The Commissioner shall establish policy and procedures for administering annual leave in accordance with T.C.A. § 8-50-801.

(1) Amount Earned and Maximum Accumulation. Annual leave is earned with maximum accumulation as follows:

(a) Employees with less than five (5) years of full-time service accrue annual leave at the rate of one (1) day for each month or major fraction of a month of active service and may accumulate a maximum of thirty (30) work days.

(b) Employees with five (5) years and less than ten (10) years of full-time service accrue annual leave at the rate of one and one-half (1 ½) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-six (36) workdays.

(c) Employees with ten (10) years and less than twenty (20) years of full-time service accrue annual leave at the rate of one and three-fourths (1 ¾) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-nine (39) work days.

(d) Employees with twenty (20) years or more of full-time service accrue annual leave at the rate of two (2) days for each month or major fraction of a month of active service and may accumulate a maximum of forty-two (42) work days.

(2) Creditable Service. Any month, which was a part of a fifteen hundred sixty (1,560)~~sixteen hundred (1,600)~~ hours or greater annual schedule, in which an employee is scheduled to work a full month, and actually works one-tenth of one hour more than half the scheduled hours, shall be creditable for maximum accumulation purposes.

(3) Transfer of Annual Leave to Sick Leave. Leave earned in excess of the maximum allowable accumulation based on years of service as defined in T.C.A. § 8-50-801 shall be transferred to the employee's sick leave account annually in the month of the employee's last hire date.

(4) Annual Leave Paid as a Lump Sum. When separating from the state service, an employee shall be paid for any annual leave accumulation in a lump sum unless that employee is dismissed or terminated from state service for gross misconduct, or resigns from the state service to avoid dismissal for gross misconduct, or was guilty of gross misconduct prior to leaving the state service. In cases involving gross misconduct, the employee forfeits all accumulated annual leave.

(5) Annual Leave as Terminal Leave Prior to Retirement. An employee may use annual leave as terminal leave when retiring from state employment or may receive a lump sum payment for annual leave balances.

(6) Annual Leave Shall Not Be Advanced. Annual leave shall not be taken until earned.

(7) Employee Meetings. Annual leave may be used to attend meetings of employee associations which are qualified for payroll dues deduction. Except as enumerated in T.C.A. § 8-50-110, leave allowed for this purpose cannot exceed two (2) days per year.

(8) Annual Leave Transferable. Unless there is a break in service, annual leave shall be transferred to and shall be accepted from state agencies and higher education institutions, legislative and judicial branches.

Authority: T.C.A. §§ 8-50-110, 8-50-801, 8-50-803, and 8-50-807.

1120-06-.18 Military Leave.

(1) Military Leave with Pay. A leave of absence with pay, not to exceed twenty (20) working days in any one year, shall be granted to employees who are members of the reserve components of the Armed Forces of the United States, including members of the Tennessee National Guard, for periods they are engaged in the performance of duty or training activities in the service of the State or the Federal Government while under competent orders. Holidays and scheduled off duty days do not count toward the twenty (20) days allowed. During the period of approved paid military leave, the employee incurs no loss of service time and continues to earn regular annual leave and sick leave. There shall be no loss of rights or benefits to which the employee is otherwise entitled. Military leave with pay shall ~~not~~ be granted for regularly scheduled monthly training for reservists or national guardsmen.

(2) Military Leave without Pay. Leave without pay shall be granted for periods of active duty or training activity with the Armed Forces of the United States, its reserve components, or the Tennessee National Guard for authorized periods beyond the twenty (20) working days of paid leave in a calendar year. In addition, leave without pay may be granted for regularly scheduled monthly training for reservists or national guardsmen and to employees entering the regular components of the Armed Forces of the United States as a result of military conscription or for a period of voluntary enlistment. During the period of leave without pay for military service, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay, if otherwise eligible. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate state insurance program provisions.

(3) Air Force Auxiliary Civil Air Patrol Leave. A leave of absence with pay, not to exceed fifteen (15) working days in any one calendar year, shall be granted to employees who are members of the United States Air Force Auxiliary Civil Air Patrol and who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. In addition, leave without pay shall be granted to employees on Civil Air Patrol Leave. During the period of leave without pay, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay, if otherwise eligible. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate insurance program provisions.

Authority: T.C.A. § 8-33-105, 8-33-109, and 42-7-102.

1120-06-.20 Parental Leave.

(1) An employee who has been employed for at least twelve (12) consecutive months as a full-time employee, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.

(2) An employee may use up to thirty (30) sick leave days for parental leave. ~~In the event both parents are state employees, the aggregate sick leave used is limited to thirty (30) days.~~

(3) When an employee adopts a child, an Appointing Authority has the discretion to grant additional special leave not to exceed one (1) year.

(4) The Commissioner shall establish procedures pertaining to parental leave.

Authority: T.C.A. §§ 4-21-408, 8-30-104, 8-30-105, 8-30-406, 8-50-802, and 8-50-806.

1120-06-.22 Division of Claims Administration Leave. The Division of Claims Administration is responsible for determining whether an employee is eligible for workers' compensation due to a job related injury or illness.

(1) Workers' Compensation Pay. An employee may not receive workers' compensation pay for any period that the employee used sick, annual, or compensatory leave.

(2) Effect on Anniversary Dates. Time served on Division of Claims Administration leave shall not affect the employee's longevity, if eligible, salary or service anniversary date.

(3) Assault Pay. Employees who are injured in the line of duty, as the result of an assault which disables them from performing their jobs, shall be allowed to remain on the regular payroll for a period not to exceed twenty-eight (28) calendar days subject to approval by the Commissioner. Such disability shall have occurred no later than twenty-eight (28) calendar days from the date of injury. If the same injury results in an employee being unable to perform his job for more than twenty-eight (28) calendar days and provided that a proper claim has been filed with the Division of Claims Administration within ten (10) calendar days of the date of injury, the employee may receive the difference between his regular salary and the weekly compensation rate awarded by the Division of Claims Administration for an additional sixty-two (62) calendar days. Thus, an employee who is disabled as a result of an assault may receive full pay through a combination of regular payroll and Division of Claims Administration compensation for a total of ninety (90) calendar days before being reduced to the usual lost time rate of the Division of Claims Administration or using accumulated sick, annual or compensatory leave.

(4) Injured in the Line of Duty. A commissioned member of the Tennessee Department of Safety, a driver's license examiner, correctional officer or youth service officer who is injured in the line of duty, and whose injury disables him from performing his regular duties, whether such disability is temporary or permanent, shall be retained upon the regular payroll until the employee's claim for compensation for such disability is determined by the Division of Claims Administration. The Governor and the Attorney General shall approve the request of the Appointing Authority.

Authority: T.C.A. §§ 8-50-111 and 68-102-402.

Chapter 1120-07

Equal Employment Opportunities

Amendments Redline

1120-07-.02 Agency Responsibilities. In demonstrating the agency's commitment to the equal employment opportunities policy, each Appointing Authority in state service shall:

(1) Be held responsible for compliance with the state law, policy, and executive orders pertaining to Eequal Eemployment Oopportunities (EEO), Americans with Disabilities Amendments Act (ADAAA), Affirmative Action (AA), and Uniformed Services Employment and Reemployment Rights Act (USERRA);

(2) Adopt the ~~Develop an~~ equal employment opportunity compliance policy prepared by the Department of Human Resources~~statement~~ and inform employees of the agency's commitment to that policy;

(3) Designate an employee to coordinate equal employment programs within that agency;

(4) Ensure~~Inform~~ supervisory personnel have participated in any required training that will enhance~~of~~ their role in carrying out the agency's equal employment opportunities policies;

(5) Maintain processes for internal investigations of workplace discrimination or harassment complaints conducted pursuant to the state's policy; and

(6) Submit to the Commissioner a completed equal employment opportunity~~affirmative action~~ plan annually in a manner prescribed by the Commissioner.

Authority: T.C.A. §§ 8-30-101, 8-30-104, 8-30-105, 8-30-303, 8-30-307, 8-50-103, 8-50-104, 29 U.S.C. § 623, 29 U.S.C. § 794, 38 U.S.C. § 4311(a), 42 U.S. C. § 2000e, et seq., 42 U.S.C. 2000ff, et seq., 42 U.S.C. 12101, et seq., 20 C.F.R. Part 1002.210, 29 C.F.R. Parts 1600 through 1699.

1120-07-.03 Department of Human Resources' Responsibilities.

(1) The Commissioner shall represent the Governor in matters relating to equal employment opportunities in the state service;

(2) The Department shall periodically review employment practices to ensure~~insure~~ that these practices are not discriminatory;

(3) The Commissioner shall establish appropriate guidelines and procedures governing the preparation and submission of the Equal Employment Opportunity~~affirmative action~~ Pplan by each agency;

(4) The Department shall provide training and technical assistance in the development, implementation and monitoring of agencies' ~~affirmative action plans and~~ equal employment programs;

(5) The Department shall provide training and technical assistance to employees and agencies regarding compliance with EEO, ADAAA, AA, and USERRA;

(6) The Department shall inform any person claiming unlawful discrimination or harassment of the appropriate procedures for pursuing a complaint.

(7) The Department shall report to the Governor the equal employment opportunity activities of each department, agency and commission in the state service; and

(8) The Department shall inform the Governor when instances occur of non-compliance or failure to demonstrate good faith efforts under this rule.

Authority: T.C.A. §§ 8-30-101, 8-30-104, 8-30-105, 8-30-303, 8-30-307, 8-50-103, 8-50-104, 29 U.S.C. § 623, 29 U.S.C. § 794, 38 U.S.C. § 4311(a), 42 U.S. C. § 2000e, et seq., 42 U.S.C. 2000f, et seq., 42 U.S.C. 12101, et seq., 20 C.F.R. Part 1002.210, 29 C.F.R. Parts 1600 through 1699.

Chapter 1120-08

Learning and Development

Amendments Redline

1120-08-.01 Learning and Development Provided by the Department. The Department shall serve as the state's exclusive provider of learning and development programs for state employees.

(1) The Department shall exclusively provide education which:

(a) Improves productivity, effectiveness, and efficiency of government service by enhancing employee performance through performance management;

(b) Assists employees in developing professional skills;

(c) Offers agencies talent management; and

(d) Develops managers and supervisors in effective management and leadership practices.

(2) The Department shall approve any non-technical training and education provided by an agency prior to implementation to determine if the programs can be offered by the Department.

(3) The Department shall approve any requests for non-technical out-service training or continuing education as described herein.

Authority: T.C.A. § 8-30-104, 8-30-105, and 8-30-313.

1120-08-.05 Continuing Education, Learning, and Development. All state employees are eligible to participate in continuing education, learning, and development related to their current job assignment, subject to the recommendation of the Appointing Authority and the approval of the Commissioner and the Commissioner of Finance and Administration.

(1) Criteria. The Commissioner may approve continuing education, learning, and development based on any of the following criteria:

(a) Lack of availability of programs offered by the Department;

(b) Job relatedness;

(c) Cost-effectiveness; or

(d) Availability of programs in public Tennessee higher education institutions;

(2) Appointing Authority Responsibilities. The Appointing Authority shall:

(a) Submit to the Commissioner, in advance, an approval request for each employee to attend continuing education, learning, and development;

(b) Monitor employee attendance and performance; and

(c) Document completion and maintain a public record.

(3) Salary and Related Expenses. In the event the Appointing Authority grants reimbursement to the employee for salary and related expenses, the Appointing Authority shall approve, in advance, reimbursement for the following and submit the authorization to the Commissioner:

(a) Travel. Reimbursement shall be for travel in accordance with the State's comprehensive travel regulations;

(b) Tuition. The Appointing Authority shall determine and approve tuition reimbursement subject to the approval of Finance and Administration; and

(c) Salary. Salary payment is based on the following types of continuing education and learning:

1.~~(i)~~ Full-time. Employees in full-time education shall receive seventy-five percent (75%) of their regular salary. When the State requires an employee to obtain additional education, employee compensation is possible at full salary with the prior approval of the Commissioner and the Commissioner of Finance and Administration. If an employee receives salary assistance through scholarships, fellowships, grants or other outside sources, the total amount received from the State and outside sources during the continuing education period shall not exceed the employee's regular salary. The employee shall submit a notarized statement of salary funding and sources to the Appointing Authority.

2.~~(ii)~~ Part-time. Employees in part-time education shall receive their regular salary.

3.~~(iii)~~ Short-term. Employees in short-term learning shall receive their regular salary.

4.~~(iv)~~ After work hours. An employee in after work hours education or learning is not eligible for additional salary payment.

(d) Distribution of salary. The Appointing Authority is responsible for payment of the employee's reimbursement for salary. Distribution is contingent upon completion of the program and shall be documented by the attended institution.

(4) Employment status during full-time continuing education, learning and development.

(a) Leave Status. An employee engaged in authorized full-time continuing education, learning, and development is on educational leave during the period approved by the Appointing Authority. The Appointing Authority must approve any extension of this leave. An employee shall not accrue sick or annual leave during this period.

(b) Salary Increases and Adjustments. If eligible, an employee in full-time continuing education, learning, and development shall continue to receive any salary increases or adjustments permitted by law.

(c) Continuous Service. Full-time continuing education, learning, and development shall not interrupt continuous service for purposes of service credit~~longevity~~.

(d) Payroll Deductions. All prior authorized deductions shall continue during full-time continuing education, learning, and development provided the adjusted salary covers the deductions.

(e) State Contributions. Contributions from the State to the employee's insurance premiums and retirement account shall continue.

(5) Employee's responsibilities.

(a) An employee in full-time continuing education, learning and development shall contractually agree to work for the agency for twelve (12) months or twice the total educational leave, whichever is greater. If the employee fails to fulfill the contract, the employee shall reimburse the State for expenses incurred during the full-time continuing education, learning and development, including salaries and wages paid by the State. Neither sick nor terminal leave shall be used to reduce the reimbursement period.

(b) An employee in continuing education, learning and development shall be held to the same attendance and performance standards as other work assignments. An employee shall reimburse the State for all costs, including salary, resulting from unexcused absences and incompletion of a learning and development program. Collection of reimbursement is the responsibility of the agency.

(c) If an activity in continuing education, learning and development is terminated prior to completion, either at the convenience of the State or because of death, prolonged illness, disability, or similar conditions beyond the control of the employee, neither the employee nor the employee's estate may be responsible for reimbursement of expenses.

(d) If an employee is discharged for any cause from the State or the educational institution, relief of financial obligation is in the sole discretion of the Appointing Authority, and is not subject to appeal.

Authority: T.C.A. § 8-30-104 and 8-30-105.

1120-08-.06. Continuing Education Units. The Department may grant Continuing Education Units (CEUs) for continuing education, learning and development which meets national standards. Generally, one~~One~~ (1) CEU unit shall be granted for each ten (10) hours of instruction. Agencies shall apply to the Commissioner for approval of CEU credit for courses not offered by the Department.

Authority: T.C.A. § 8-30-104 and 8-30-105.

Chapter 1120-09

Programs Administered by the Department of Human Resources

Amendments Redline

1120-09-.01 Tennessee Employees' Charitable Campaign. The Tennessee Employees Charitable Campaign shall be coordinated annually by the Department. The Governor and the Commissioner shall be designated as chair and co-chair respectively.

Employees may contribute through payroll deduction to charitable organizations ~~social services and health agencies~~ authorized by the Commissioner. Procedures and methods for deductions of monies are at the discretion of the Governor, the Commissioner and the Commissioner of Finance and Administration.

Authority: T.C.A. § 8-30-104 and 8-30-105.

1120-09-.02 Sick Leave Bank. The Department shall administer a bank which grants paid sick leave to qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine and who have exhausted all their personal sick, compensatory, and annual leave balances. Administration of the Sick Leave Bank is governed by guidelines adopted by the Sick Leave Bank Board.

Authority: T.C.A. §§ 8-50-901 through 8-50-910.

1120-09-.04 Employee Suggestion Award Program. The Department shall administer the Employee Suggestion Award Program in accordance with T.C.A. § 4-27-101, et seq. The Commissioner shall establish policy governing the administration of the Employee Suggestion Award Program.

Authority: T.C.A. §§ 4-27-101 through 4-27-105, 8-30-104, and 8-30-105.

Chapter 1120-10

Disciplinary Action

Amendments Redline

1120-10-.01 Discipline. Each~~The~~ supervisor is responsible for maintaining the proper job performance level, conduct, and discipline of the employees under his or her supervision. When corrective action is necessary, the supervisor should administer disciplinary action at the step appropriate to the infraction, conduct, or performance, as determined by the supervisor.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.

1120-10-.04 Types of Disciplinary Actions. Corrective actions may include the following, but are not limited to:

(1) Oral Warning.

(a) The supervisor shall meet with the employee to:

~~(1.)~~ Review with the employee the expected performance and/or conduct.

~~(2.)~~ Explain to the employee why the employee's performance and/or conduct does not meet expectations.

~~(3.)~~ Provide the employee an opportunity to explain his or her performance and/or conduct.

~~(4.)~~ Make suggestions for employee action to correct the performance and/or conduct.

5. Inform the employee that the discussion shall be documented in writing covering the significant points of the discussion; and

6.~~(5)~~ Provide the employee with written follow-up documenting the date of the discussion and other necessary information regarding expectations for improvement.

(b) Written follow-up to an oral warning should not be construed as a written warning as described in paragraph (2) of this rule and shall not be maintained as part of the employee's official human resources file.

(2) Written Warning.

(a) The supervisor shall meet with the employee and shall:

~~(1) Review the points covered in the oral warning, if an oral warning was issued.~~

1.~~(2)~~ Review with the employee the expected performance and/or conduct.

2.~~(3)~~ Explain to the employee why the employee's performance and/or conduct does not meet expectations.

3.~~(4)~~ Provide the employee an opportunity to explain his or her performance and/or conduct.

4.~~(5)~~ Make suggestions for employee action to correct the performance and/or conduct.

5.~~(6)~~ Explain to the employee that future performance and/or conduct issues may lead to further disciplinary action.

6.~~(7)~~ Inform~~Tell~~ the employee that the discussion shall be documented in writing~~a letter~~ covering the significant points of the discussion.

(b) A copy of the written warning shall be placed in the employee's human resources file. After a period of two (2) years, an employee may submit a written request to expunge the written warning from the employee's file. Such request shall be granted, provided that the employee has had no further disciplinary actions with respect to the same performance, conduct, and/or discipline during the two (2) year period. The request shall not be considered a part of the employee's human resources file.

(c) Request for Review of a Written Warning. A preferred service employee who wishes to contest a written warning may request a review of the warning. The employee shall submit a written request for review to the Appointing Authority no later than fourteen (14) calendar days from receipt of the written warning. The request for review should include documentation of any mitigating circumstances causing the employee to believe that the warning is undeserved. The Appointing Authority shall provide a written decision to the employee within fifteen (15) calendar days of receipt of request for review. The Appointing Authority's written decision is final and not subject to appeal. If the Appointing Authority fails to provide a written decision within the prescribed time, the written warning shall be removed from the employee's file.

(3) Suspension Without Pay.

(a) An Appointing Authority may suspend an employee without pay, for disciplinary purposes, for such length of time as the authority considers appropriate, not to exceed thirty (30) days in any twelve (12) month period. With the approval of the Commissioner, an employee may be suspended for a longer period pending the appeal or the processing of an appeal in accordance with this chapter.

(b) Any employee who is suspended shall receive a written notice from the Appointing Authority that contains the following:

~~(~~1.~~)~~ an account of the circumstances which led to the suspension, including the statute, rule or policy that the employee allegedly violated;

~~(~~2.~~)~~ the beginning and ending dates of the suspension; and

~~(~~3.~~)~~ information to the employee concerning the appeal process as outlined in these rules.

(c) A copy of the notice shall be placed in the employee's human resources file.

(d) The ability to appeal for suspensions of one (1) or two (2) ~~less than three (3) days~~ is limited to the Appointing Authority under Step I and the Commissioner under Step II of the appeal process. An employee cannot ~~shall not be entitled to~~ appeal a one or two day suspension ~~suspension of less than three (3) days~~ to the Board of Appeals.

(4) Dismissal.

(a) An Appointing Authority may dismiss any employee for performance and/or conduct.

(b) The Appointing Authority shall submit written notice to the employee and copy the Department at the time a preferred service employee is dismissed. The notice shall specify the circumstances leading to the dismissal, including the statute, rule or policy that the employee allegedly violated, and inform the employee of the appeal process, if applicableany. The notice shall become part of the employee's human resources's file.

The date of this written notification, if hand-delivered, shall serve as the beginning date for the appeal period. If the written notification is sent via certified mail, the beginning date for the appeal period shall be three (3) calendar days following the date the written notification was sent, or in the alternative, the date the employee signed for it. An employee shall continue to receive compensation for ten (10) work days following the date of notification but is not required to report to work during this period. The employee's accumulated annual leave balance may be used during this period only if the dismissal was for gross misconduct.

(c) When the dismissal is for gross misconduct, the written notice shall describe the job-related misconduct and provide applicable section(s) of Tennessee Code Annotated or other relevant law under which the employee may be criminally prosecuted. The notice shall also include information regarding the employee's ineligibility for COBRA as well as any additional restrictions of benefits.

(5) Transfer or Demotion. If the Appointing Authority determines that a preferred service employee's ability to satisfactorily perform the required duties of the position is beyond the capabilities of the employee or the employee has been compromised by conduct that renders the employee ineffective, the Appointing Authority may choose to demote or transfer the preferred employee to another position. An employee who is demoted shall receive written information concerning the appeal process as outlined in these rules. An employee who is transferred does not have the ability to appeal.

Authority: T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.

Chapter 1120-11

Appeals

Amendments Redline

1120-11-.02 Responsibility.

(1) The Commissioner is responsible for providing and maintaining the basic standards and guidelines for implementing this chapter.

(2) Appointing authorities are responsible for the proper implementation of this chapter throughout their respective agencies and are responsible for ensuring that all employees and supervisorsy ~~staff~~ are made aware of the provisions of this chapter.

(3) The Appointing Authority shall notify an employee of the appeal process, if applicable, and relevant time limits.

Authority: T.C.A. § 8-30-104, 8-30-105, and 8-30-318.

1120-11-.03 Basic Standards.

(1) An employee who files a complaint under this chapter shall do so no later than fourteen (14) calendar days after the date the employee receives written notice of a dismissal, demotion, or suspension. If an employee fails to file the complaint within the fourteen (14) calendar day period, the ability to appeal as defined in this chapter lapses and is deemed to have been waived in its entirety by the employee.

(2) A complaint is considered as filed when the Appointing Authority, the Commissioner or the Board, depending on whether the complaint is being made under Step I, II or III as provided in Rule 1120-11-.04, receives a written or electronic copy of the complaint.

(3) If the term of the suspension is one (1) or two (2)~~less than three (3)~~ days, the ability to appeal is limited to an appeal to the Appointing Authority under Step I and the Commissioner under Step II as provided in this chapter. An employee shall not be eligible~~able~~ to appeal a one or two day suspension ~~suspension of less than three (3) days~~ to the Board.

(4) A complaint filed under this chapter shall identify the following:

(a) the employment action taken against the employee;

(b) the specific law, rule, or policy that was allegedly violated by the agency (or by the employee under Step III if applicable); and

(c) the corrective action sought by the employee.

(5) Appeal discussions held during the scheduled off-duty hours for a complainant, witness, or representative shall be considered the same as hours worked, including overtime if applicable. Employees who are required to appear as witnesses or representatives shall not be required to use leave for such periods and shall be reimbursed for travel and other expenses in accordance with the state's comprehensive travel regulations.

(6) All decisions rendered in accordance with this chapter shall be in writing and communicated as outlined herein.

(7) Written communication shall be considered received upon actual receipt as indicated by signature if hand delivered or three (3) days after a decision is sent via certified mail, return receipt requested to the employee's legal residence.

(8) When awarding back pay pursuant to an order of reinstatement, the award shall be offset by income earned from alternative employment if earned during the employee's normal state working hours when employed by the state. Additionally, awards of back pay may be offset by unemployment insurance payments received.

Authority: T.C.A. § 8-30-104, 8-30-105, and 8-30-318. Administrative History: (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

1120-11-.04 Procedural Steps in Appeal. There shall be three (3) steps in the appeal process as follows:

(1) Step I – Appointing Authority Level

(a) The employee submits a written complaint to the Appointing Authority within fourteen (14) calendar days after the date the employee receives written notice of a dismissal, demotion, or suspension. The written complaint shall identify the specific law, rule, or policy that was allegedly violated by the agency along with any relevant documentation.

(b) The Appointing Authority or designee shall conduct any investigation considered necessary, meet with the complainant in person, along with the supervisor who issued the discipline or an agency representative, and issue a written decision not later than fifteen (15) calendar days after the date the Appointing Authority receives the complaint. If independent information is collected by the Appointing Authority or designee at any time during Step I, the agency shall provide the employee with a copy of the information as soon as practicable. If the information obtained is confidential, the employee shall be allowed to view the information as soon as practicable, but will not be provided with a hard copy of the information. The employee shall have the opportunity to respond with a written statement to the information provided within three (3) calendar days. The Appointing Authority or designee shall not issue a decision until the employee has been afforded the opportunity to respond to any new evidence or information, unless doing so violates the fifteen-day timeframe.

(c) The Appointing Authority shall have full authority to overturn, reduce, or amend the disciplinary action based on information gathered at the Step I discussion~~hearing~~ or information obtained afterwards, including reinstatement of leave and awards of back pay, if appropriate.

(d) If the Appointing Authority does not issue a decision within fifteen (15) calendar days after the Appointing Authority receives the complaint, the complainant may appeal to the Commissioner by filing the complaint in accordance with Step II.

(e) The presence of observers is in the discretion of the Appointing Authority or designee. The agency or employee is required to establish good cause if either has more than one (1) representative present at the Step I discussion. If the Appointing Authority or designee does not make a determination that good cause has been established, the representatives may be excluded from the discussion. Representatives and attorneys may not represent the parties at the Step I appeal.

(2) Step II – Commissioner of the Department of Human Resources

(a) If the Appointing Authority does not find in favor of the employee, the employee may appeal to the Commissioner by submitting a written complaint and all relevant documentation no later than fourteen (14) calendar days after receipt of the Appointing Authority's written decision to:

Commissioner
Tennessee Department of Human Resources
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

(b) The written complaint shall identify the specific law, rule, or policy that was allegedly violated by the agency and include a copy of the Appointing Authority's Step I decision, if one was issued. If a complainant fails to include a copy of the Step I decision, it is not grounds for denial of the appeal.

(c) The Commissioner or designee shall review the complaint, any relevant accompanying documentation, and the Appointing Authority's decision, if any. The Commissioner shall issue a decision, in writing, not later than thirty (30) days after the date the complaint was filed with the Commissioner. The Commissioner shall have the authority to independently obtain any additional information regarding the matter. If independent information is collected by the Commissioner, the Commissioner shall provide the employee with a copy of the information as soon as practicable. If the information obtained is confidential, the employee shall be allowed to view the information as soon as practicable, but will not be provided with a hard copy of the information. The employee shall have the opportunity to respond with a written statement to the information provided within three (3) calendar days. The Commissioner shall not issue a decision until the employee has been afforded the opportunity to respond to any new evidence or information, unless doing so violates the thirty (30) day timeframe. ~~The Commissioner shall have full authority to overturn, reduce, o amend the disciplinary action based on the information submitted for consideration, including reinstatement of leave and awards of back pay, if appropriate.~~

(d) If the Commissioner does not issue a decision within thirty (30) calendar days after the Commissioner receives the complaint, the agency or the employee may appeal to the Board in accordance with Step III.

(3) Step III – Board of Appeals

(a) The complainant or state agency may appeal in writing to the Board of Appeals not later than fourteen (14) calendar days after the date the complainant, or in the case of a state agency, the state agency receives written notice of the action taken by the Commissioner. The written complaint shall state the specific law, rule or policy allegedly violated by the agency or the employee, along with all relevant documentation and the Step II decision to:

Board of Appeals
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

(b) Within ten (10) calendar days after the receipt of the appeal, the Administrative Law Judge (ALJ) assigned to assist the Board shall determine whether all procedural requirements were completed properly and in a timely manner. If a procedural requirement was not been met, the appeal shall be dismissed. If the procedural requirements have been met, the Board shall conduct proceedings in accordance with

the Uniform Administrative Procedures Act as modified herein, to determine if the law, rule, or policy specified in the complaint was violated.

(c) For purposes of this section, procedural requirements shall be construed to mean the procedural requirements at Step III of the appeal process.

(d) Each hearing under this chapter shall occur before a panel of at least three (3) members of the Board, assisted by one (1) ALJ. The ALJ shall assist at the hearing by ruling on questions of the admissibility of evidence, swearing witnesses, advising members of the Board on the law of the case, and ensuring that the proceedings are carried out in accordance with this chapter and other applicable law. An ALJ, upon timely motion, may decide any procedural question of law.

At no time shall the ALJ take part in the determination of a question of fact. However, the Board may request an ALJ to hear the facts of the case and issue a recommendation to the Board. The Board shall convene as described herein to make a determination of the question of fact based upon the recommendation of the ALJ.

(e) The Board shall issue its final decision in each proceeding no later than one hundred twenty (120) days after the date of the filing of the appeal with the Board.

(f) The Board shall have full authority to overturn, reduce, or amend the disciplinary action based on the information submitted for consideration, including reinstatement of leave and awards of back pay, if appropriate.

(4) In order to ensure that the Board issues its final decision no later than one hundred twenty (120) days after the date of the filing of the appeal, the following conditions shall be imposed on hearings before the Board:

(a) The parties shall participate in a pre-hearing conference no later than twenty (20) days after the filing of the appeal. At the pre-hearing conference, a hearing date shall be set.

(b) All discovery shall be completed no later than sixty (60) days after the filing of the appeal.

(c) All motions, both dispositive and non-dispositive, shall be ruled on no later than thirty (30) days before the date of the hearing.

(d) Extensions on the deadlines provided herein are only to be granted in extraordinary circumstances. In any event, the granting of an extension shall not extend the one hundred twenty (120) day time period for the Board to issue its decision.

(e) Neither party shall be entitled to file a petition for reconsideration under T.C.A. § 4-5-317.

(5) The Board hearing shall serve as the final administrative step in the appeals procedure for preferred service employees. An order is considered final upon signature by the presiding Board member. Decisions of the Board are subject to judicial review in accordance with the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

(6) If the employee is successful in obtaining reinstatement to a position from which the employee has been terminated, the employee shall be reinstated to a position in the county in which he or she was employed at the time of termination. The Commissioner may grant exceptions on a case-by-case basis.

(7) In any case in which a successful complainant has been awarded reinstatement, back pay, or attorney's fees, the agency involved shall have a period of thirty (30) calendar days from the date of the order within which to provide reinstatement, back pay and/or attorney's fees.

Authority: T.C.A. § 4-5-301, et seq., 8-30-104, 8-30-105, and 8-30-318.

1120-11-.05 Attorney Fees. The Board of Appeals may, at its discretion, award reasonable fees and costs upon successful appeal to an employee's attorney in accordance with the following terms and conditions.

(1) Attorney's fees awarded by the Board shall be awarded at the same rates established by Guidelines for the Defense of Individual Employees issued by the State of Tennessee Office of the Attorney General and Reporter.

(2) All awards of costs shall be limited to reasonable costs actually incurred. Awards of costs for travel shall be subject to the provisions of the state's comprehensive travel regulations in effect at the time the claim is made.

(3) If the Board awards attorney fees, the prevailing attorney shall submit an affidavit detailing the hours of preparation, in hours and tenths of hours, the nature of services performed during such preparation, the hours of hearing time, and a complete itemized statement of costs claimed. Claims shall be submitted to the following address:

Board of Appeals
c/o Tennessee Department of Human Resources
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

(4) In no event shall a claim be paid which is not received by the Board of Appeals within thirty (30) calendar days of the effective date of the final order.

(5) A designee for the Board shall review all such claims for compliance with these rules, the applicable guidelines, and the Board's decision. The designee is authorized to approve payment of such claims for any amount up to and including the amount claimed.

Authority: T.C.A § 8-30-104, 8-30-105, and 8-30-318

Chapter 1120-12

Computation of Time

Amendments, Redline

1120-12-.01 Computation of Time. Unless specified otherwise, in computing any period of time prescribed or allowed by Rule 1120, the date of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined in T.C.A. §15-1-101, or, when the act to be done is the filing of a paper, a day on which the office where the paper to be filed is closed or on which weather or other conditions have made the office inaccessible, in which event the period runs until the end of the next day which iAs not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation, unless specifically stated otherwise within Rule 1120 or the Act.

Authority: T.C.A. § 8-30-104, 8-30-105, and 8-30-407.

Chapter 1120-14

Tennessee Employee Mediation Program

Amendments Redline

1120-14-.01 Statement of Policy.

(1) It is the policy of the State of Tennessee to encourage the use of mediation as a valuable tool for all state employees to resolve workplace issues. Mediation is a process whereby the parties themselves, with the assistance of a third party neutral, seek to develop and agree upon solutions to issues in the workplace. The primary purpose of the Tennessee Employee Mediation Program ("the program") is to provide a responsive, informal, confidential, and effective means of resolving human resource issues.

(2) Mediation is designed to supplement and not to limit or replace the appeal procedures detailed in the Act. Participation in mediation will not toll the filing deadlines for appeal as described in these rules. Mediation may not be used to circumvent state or departmental policies.

~~(3)~~ The Commissioner is responsible for providing and maintaining the basic standards and guidelines for implementation and administration of this program. ~~Appointing authorities are responsible for proper implementation of this program throughout their respective agencies and for ensuring that all employees are aware of the provisions of this program.~~

Authority: T.C.A. § 8-30-104 and 8-30-105.

1120-14-.02 Coverage.

(1) Access to Mediation. Access to mediation services under this rule is available to any employee in the state service. Access to mediation services under this rule shall not be available to those employees excepted under the terms of T.C.A. § 8-30-102(b).

(2) Definition of Workplace Issues. For purposes of this rule, "workplace issues" may include, but is not limited to, the following:

(a) Disciplinary action taken against an employee involving suspensions, demotions, and terminations (if the request is made within fourteen (14) calendar days of the disciplinary action, or at any point during the disciplinary appeal process, if applicable);~~.~~

(b) Workplace harassment and discrimination as defined by the Department;~~.~~

(c) Violations of the Healthy Workplace Policy as defined by the Department;

~~(c) Involuntary geographical transfer of an employee or official duty station more than fifty (50) miles. Distance will be determined by drawing a circle, with a fifty (50) mile radius, centered on the previous official duty station;~~

~~(d) Prohibited political activity as outlined in T.C.A. Title 2, Chapter 19 (the "Little Hatch Act");~~

(d) Performance and/or conduct issues, unless excepted under the terms of 1120-14-.02(3); and

(e) Other workplace issues involving a relational, communication, or values conflict in state government employment.

~~(3) Matters not eligible for Mediation. The following actions are not considered matters eligible for mediation:~~

~~(a) Actions that affect an employee serving an initial probationary period;~~

~~(b) Non-selection for promotion when the appointment was in compliance with these rules and the Act;~~

~~(c) Actions resulting from reductions in force when the actions by the Appointing Authority were in compliance with statutes and rules;~~

~~(d) Shift, post, and overtime assignments;~~

~~(e) Reasonable work assignments outside those normally associated with the employee's assigned job classification;~~

~~(f) Salary range assigned to classifications;~~

~~(g) Administration of salary increases established and funded by the legislature;~~

~~(h) Classification of position;~~

~~(i) Denial of leave requests except as provided for in T.C.A. § 8-50-110 and T.C.A. § 8-50-802;~~

~~(j) The terminology, formation, intent, implementation or construction of agency rules or policies; and~~

~~(k) Any other matter over which an Appointing Authority or the Commission has no control or jurisdiction or is without the authority to grant requested relief.~~

(3)~~(4)~~ No Grounds for Complaint. Nothing contained in this rule shall be construed to create or provide any substantive or procedural right or interest in state government employment, and the denial of access to mediation services shall not constitute any grounds for complaint or appeal.

(4)~~(5)~~ Voluntary Participation. Participation in mediation shall be voluntary and conducted only by agreement of both parties. Employees who participate in or opt out of mediation shall do so without interference, coercion, reprisal, discrimination, retaliation, or harassment.

Authority: T.C.A. § 8-30-104 and 8-30-105.

1120-14-.03 Process and Procedure.

(1) To commence the mediation process, an employee or the ~~Appointing Authority~~Agency shall file a request to the Department on a form prescribed by the Commissioner. Upon receipt of the request for mediation, the Department will notify the employee's Appointing Authority or his/her designee and the employee whose consent and presence will be necessary for the mediation. If consent to mediate is obtained by the individuals involved, and the Department otherwise considers the request appropriate for mediation under the guidelines set forth above, the Department shall refer the matter to an approved mediator. If consent is not

obtained or the Department considers the matter not appropriate for mediation, the requesting employee or AgencyAppointing Authority will be so notified.

(2) The Appointing Authority, or designee, shall attend the mediation to reach an agreement and implement any final mediation agreement, or be available to authorize the terms of the agreement.

(3) Upon convening the mediation, the parties shall execute an agreement to mediate, which form shall be approved by the Commissioner and shall become part of the mediation file. Either party or the mediator may voluntarily withdraw from the mediation at any time or at any stage in the process.

(4) Each party may have a representative present during the mediation. Any representative present at the mediation shall be required to sign the agreement to mediate and be bound by its terms. However, as mediation is not an adversarial proceeding, the role of any representative shall be limited to that of an advisor and observer, and not as an advocate on behalf of either party. The mediator shall maintain the authority to restrict the activities of any representative and shall have the discretion to terminate the mediation or limit the presence of observers.

(5) Audiotape, videotape, or other automated or electronic recordings of the mediation is expressly prohibited.shall not be permitted.

(6) Any mediated settlement agreement shall be approved by the parties' Appointing Authority and any other parties as required by law. Copies of the mediation settlement agreement shall be provided to the involved parties. The mediation settlement agreement shall not become part of any involved party's personnel file. Any mediated settlement agreement shall not be considered confidential pursuant to T.C.A. §10-7-503. If the workplace issue involves an appeal filed pursuant to T.C.A. § 8-30-318, any mediated settlement agreement shall be forwarded to the Board of Appeals. Any mediated settlement agreement shall not be contrary to the laws, rules, regulations or policies of the State of Tennessee or federal law, or exceed the Appointing Authority's legal authority.

(7) Neither a request for, nor participation in mediation shall preclude an Appointing Authority from taking independent disciplinary action as needed in dealing with an employee's job performance or conduct.

(8) Participation in mediation shall not require the use of accrued leave if the participating employee has obtained the prior approval of his/her supervisor or Appointing Authority. Any travel expenses incurred by participants shall be subject to the travel regulations established by the Department of Finance and Administration.

(9) Neither a request for, nor participation in mediation shall affect the time periods for filing complaints or appeals pursuant to T.C.A. § 8-30-318.

(10) By submitting a request for mediation and participating in the mediation process, participants agree not to subpoena the mediator or his/her records or notes pertaining to the mediation in any court or administrative proceedings, unless the proceeding concerns alleged misconduct by the mediator or enforcement of the mediated settlement agreement.

(11) While serving as a mediator, the mediator is not acting in a supervisory or managerial capacity for the State of Tennessee or his/her Appointing Authority.

Authority: T.C.A. § 8-30-104 and T.C.A. § 8-30-105.

1120-14-.04 Training and Certification.

(1) The Department shall maintain a list of state affiliated mediators approved to conduct mediations under this program.

(2) An individual desiring to be listed on the panel of approved mediators shall have satisfactorily completed mediation training which has been approved by the Alternative Dispute Resolution ("ADR") Commission of the Tennessee Supreme Court, or otherwise satisfy the requirements for listing as a mediator pursuant to the rules of the ADR Commission; and further receive the approval and recommendation for listing on the panel of mediators from the individual's Appointing Authority. ~~The Department shall designate the necessary continuing education program for panel mediators.~~ Final approval for listing or removal from the panel shall be ~~in~~ in the Commissioner's discretion~~determined by the Commissioner~~.

Authority: T.C.A. § 8-30-104 and 8-30-105.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (*board/commission/other authority*) on 01/20/2017 (*date as mm/dd/yyyy*), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: January 20, 2017

Signature: Danielle Barnes

Name of Officer: Danielle Barnes

Title of Officer: Deputy Commissioner

ANGELA P. MARTIN NOTARY PUBLIC AT LARGE DAVIDSON COUNTY TN

Subscribed and sworn to before me on: January 20, 2017

Notary Public Signature: Angela P. Martin

My commission expires on: 1-6-2020

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

2/2/2017
Date

Department of State Use Only

Filed with the Department of State on: 2/7/17

Effective on: 5/8/17

Tre Hargett
Secretary of State

RECEIVED
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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Board for Licensing Health Care Facilities
DIVISION:	
SUBJECT:	Regulatory Standards
STATUTORY AUTHORITY:	No state or federal law or regulation mandated the promulgation of the rule or established guidelines relevant thereto.
EFFECTIVE DATES:	May 9, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	These rulemaking hearing rule amendments will replace the Advance Care Plan form for all of the aforementioned Health Care Facilities' rule chapters and will rename the form as the Advance Directive for Health Care Form.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments, either written or oral.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These rules do not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

These rules exhibit clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

These rules do not contain reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These rules do not involve schedules or deadlines for compliance or reporting requirements for small businesses.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These rules do not contain reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These rules do not establish performance, design, or operational standards.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board for Licensing Health Care Facilities

Rulemaking hearing date: 09/07/2016

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   The following facility types, governed by the Board for Licensing Health Care Facilities, will be affected by these proposed rule amendments: hospitals 130, nursing homes 327, ambulatory treatment centers 160, homes for the aged 84, assisted care living facilities 267, end stage renal dialysis clinics 171, outpatient diagnostic centers 40, birthing centers 3, residential hospices 8, and adult care homes 2. There should be no additional cost associated with these rules amendments. The Board wishes to create a simple form that will eliminate the need for individuals to fill out the four existing advance directive forms – durable power of attorney, living will, appointment of health care agent, and advance care plan form. The simplified form will make it easier for facilities and individuals to understand and communicate how to deal with end of life situations.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   There are no reporting, recordkeeping or other administrative costs required for compliance with the proposed rule.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   These rules should have a positive benefit on business and consumers as the new form is both easier to complete and easier to understand.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose of the proposed rule amendments.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: None.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   These rules do not provide for any exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These amendments will replace the Advance Care Plan form for all of the aforementioned Health Care Facilities' rule chapters and will rename the form as the Advance Directive for Health Care Form.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules will affect all facility types falling under the umbrella of the Board for Licensing Health Care Facilities.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Kyonzté Hughes-Toombs, Office of General Counsel, Department of Health.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kyonzté Hughes-Toombs, Office of General Counsel, Department of Health.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Kyonzte.Hughes-Toombs@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-07-17
Rule ID(s): 6433-6447
File Date: 2-8-17
Effective Date: 5-9-17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board for Licensing Health Care Facilities
Division:	
Contact Person:	Kyonzté Hughes-Toombs
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Kyonzte.Hughes-Toombs@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1200-08-01	Standards for Hospitals
Rule Number	**Rule Title**
1200-08-01-.15	Appendix I

Chapter Number	**Chapter Title**
1200-08-02	Standards for Prescribed Child Care Centers
Rule Number	**Rule Title**
1200-08-02-.14	Appendix I

Chapter Number	**Chapter Title**
1200-08-06	Standards for Nursing Homes
Rule Number	**Rule Title**
1200-08-06-.16	Appendix I

Chapter Number	**Chapter Title**
1200-08-10	Standards for Ambulatory Surgical Treatment Centers
Rule Number	**Rule Title**
1200-08-10-.15	Appendix I

Chapter Number	Chapter Title
1200-08-11	Standards for Home for the Aged
Rule Number	**Rule Title**
1200-08-11-.14	Appendix I

Chapter Number	Chapter Title
1200-08-15	Standards for Residential Hospices
Rule Number	**Rule Title**
1200-08-15-.15	Appendix I

Chapter Number	Chapter Title
1200-08-24	Standards for Birthing Centers
Rule Number	**Rule Title**
1200-08-24-.14	Appendix I

Chapter Number	Chapter Title
1200-08-25	Standards for Assisted-Care Living Facilities
Rule Number	**Rule Title**
1200-08-25-.17	Appendix I

Chapter Number	Chapter Title
1200-08-26	Standards for Home Care Organizations Providing Home Health Services
Rule Number	**Rule Title**
1200-08-26-.15	Appendix I

Chapter Number	Chapter Title
1200-08-27	Standards for Home Care Organizations Providing Hospice Services
Rule Number	**Rule Title**
1200-08-27-.15	Appendix I

Chapter Number	Chapter Title
1200-08-28	Standards for HIV Supportive Living Centers
Rule Number	**Rule Title**
1200-08-28-.15	Appendix I

Chapter Number	Chapter Title
1200-08-32	Standards for End Stage Renal Dialysis Clinics
Rule Number	**Rule Title**
1200-08-32-.15	Appendix I

Chapter Number	Chapter Title
1200-08-34	Standards for Home Care Organizations Providing Professional Support Services
Rule Number	**Rule Title**
1200-08-34-.15	Appendix I

Chapter Number	Chapter Title
1200-08-35	Standards for Outpatient Diagnostic Centers
Rule Number	**Rule Title**
1200-08-35-.15	Appendix I

Chapter Number	Chapter Title
1200-08-36	Standards for Adult Care Homes-Level 2
Rule Number	**Rule Title**
1200-08-36-.18	Appendix I

(Rule 1200-08-01-.14, continued)

2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also include for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.

4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All hospitals shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each hospital must rehearse both the Physical Facility and Community Emergency plan as required in these regulations, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000.*

1200-08-01-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-01-.15, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-01-.15, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-01-.15, continued)

~~(2) Advance Care Plan Form~~

~~ADVANCE CARE PLAN~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that~~

(Rule 1200-08-01-.15, continued)

~~medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

Please sign on page 2 Page 1 of 2

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

(Attach additional pages if necessary)

Organ donation: Upon my death, I wish to make the following anatomical gift (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

☐ No organ/tissue donation.

SIGNATURE

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

Signature: _____ Date: _____

(Patient)

Witnesses:

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

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

This document may be notarized instead of witnessed:

(Rule 1200-08-01-.15, continued)

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

~~**WHAT TO DO WITH THIS ADVANCE DIRECTIVE**~~

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

~~Page 2 of 2~~

~~***Authority:*** *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~
~~***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

(Rule 1200-08-01-.15, continued)

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

(Rule 1200-08-01-.15, continued)

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____
(Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-02-.13, continued)
Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed June 13, 2002; effective August 27, 2002.*

1200-08-02-.14 APPENDIX I

Appendix I

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

(This space intentionally left blank)

(Rule 1200-08-02-.14, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-02-.14, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-02-.14, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~

~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

(Rule 1200-08-02-.14, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-02-.14, continued)

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

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

~~☐ No organ/tissue donation.~~

~~**SIGNATURE**~~

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

~~Signature:~~ _____ ~~Date:~~ _____

_____ ~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____

~~Signature of witness number 1~~

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

_____

~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____

_____ ~~Signature of Notary Public~~

(Rule 1200-08-02-.14, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~
~~***Administrative History:** Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

____(2) Advance Directive for Health Care Form

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-02-.14, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 **Other instructions, such as hospice care, burial arrangements, etc.:** _____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

(Rule 1200-08-02-.14, continued)

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-06-.15, continued)

6. Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested to on each trainee's record;

7. Each trainee is issued a certificate of completion which includes at least the name of the program, the date of issuance, the trainee's name and the signature of the program coordinator.

8. The program coordinator shall be responsible for the completion, signing and submission to the department of all required documentation.

(e) Student to teacher ratio must be as follows: 25:1 in classroom and 15:1 for direct patient care training.

(3) Nurse Aide Registry. A nursing home must not use any individual working in a facility as a nurse aide for more than four (4) months unless that individual's name is included on the Nurse Aide Registry. A facility must not use on a temporary, per diem, leased or any basis other than permanent, any individual who does not meet the requirements of training and competency testing.

(a) The nurse aide registry shall include:

1. The individual's full name, including a maiden name and any other surnames used;

2. The individual's last known home address;

3. The individual's date of birth; and,

4. The date that the individual passed the competency test and the expiration date of the individual's current registration.

(b) The name of any individual who has not performed nursing or nursing related services for a period of twenty-four (24) consecutive months shall be removed from the Nurse Aide Registry.

(4) Continued Competency. The facility must complete a performance review of each nurse aide employee at least once every 12 months and must provide regular in-service education based on the outcome of these reviews.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, and 68-11-804.* ***Administrative History:*** *Original rule filed September 4, 2003; effective November 18, 2003. Amendment filed March 27, 2015; effective June 25, 2015..*

1200-08-06-.16 APPENDIX I

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

(Rule 1200-08-06-.16, continued)

(This space intentionally left blank)

(Rule 1200-08-06-.16, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-06-.16, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-06-.16, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

(Rule 1200-08-06-.16, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-06-.16, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____

~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____

~~Signature of witness number 1~~

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

_____

~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____

~~Signature of Notary Public~~

(Rule 1200-08-06-.16, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~ ~~*Administrative History: Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part 1 Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-06-.16, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

_____

(Rule 1200-08-06-.16, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-10-.14, continued)

2. Evacuation procedures;

3. Safety procedures;

4. Emergency services.

(2) All facilities shall participate in the Tennessee Emergency Management Agency local/county emergency plan on an annual basis. Participation includes filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency. Documentation of participation must be maintained and shall be made available to survey staff as proof of participation.

(3) The emergency power system shall:

(a) Use either propane, gasoline or diesel fuel. The generator shall be designed to meet the facility's HVAC and essential needs and shall have a minimum of twenty-four (24) hours of fuel designed to operate at its rated load. The fuel quantity shall be based on its expected or known connected load consumption during power interruptions.

(b) Automatically transfer within ten (10) seconds in ASTC's conducting invasive surgical procedures.

(c) Be inspected monthly and exercised at the actual load and operating temperature conditions and not on dual power for at least thirty (30) minutes each month, including automatic and manual transfer of equipment. A log shall be maintained for all inspections and tests and kept on file for a minimum of three (3) years. The facility shall have trained staff familiar with the generator's operation.

(d) Emergency generators are not required if the facility does not utilize anesthesia that renders the patient incapable of self preservation. However, the facility shall have an emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours.

(4) Emergency electrical power connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. (It is recognized that some equipment may not sustain automatic transfer and provisions will have to be made to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source.)

(5) In the event of natural disaster or electrical power failure, no new surgical procedures shall be begun, and surgical procedures in progress shall be brought to conclusion as soon as possible.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed November 22, 1996; effective August 27, 1997. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003.*

1200-08-10-.15 APPENDIX I

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

(Rule 1200-08-10-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if

(Rule 1200-08-10-.15, continued)

your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

~~(2) Advance Care Plan Form~~

~~ADVANCE CARE PLAN~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2**~~

(Rule 1200-08-10-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~Organ donation: Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____

_____ ~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____

~~Signature of witness number 1~~

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

_____

~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____

_____ ~~Signature of Notary Public~~

(Rule 1200-08-10-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~***Authority:*** *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-10-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 **Other instructions, such as hospice care, burial arrangements, etc.:**

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 **Organ donation:** Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

_____ (Patient)

(Rule 1200-08-10-.15, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____ Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

1200-08-11-.14 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-11-.14, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*

CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.

☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**

Section B *Check One Box Only*

MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.

☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.**

☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.**

☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:*_____

Section C *Check One*

ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.

☐ No artificial nutrition by tube.
☐ Defined trial period of artificial nutrition by tube.
☐ Long-term artificial nutrition by tube.

*Other Instructions:*_____

Section D *Must be Completed*

Discussed with:	**The Basis for These Orders Is:** (Must be completed)
☐ Patient/Resident	☐ Patient's preferences
☐ Health care agent	☐ Patient's best interest (patient lacks capacity or preferences unknown)
☐ Court-appointed guardian	☐ Medical indications
☐ Health care surrogate	☐ (Other) _____
☐ Parent of minor	
☐ Other: _____(Specify)	

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-11-.14, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-11-.14, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.~~

(Rule 1200-08-11-.14, continued)

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

~~**Please sign on page 2**~~ ~~Page 1 of 2~~

(Rule 1200-08-11-.14, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____
~~Signature of witness number 1~~

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

_____
~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-11-.14, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-815.* **Administrative History:** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE* (Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-11-.14, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

_____

(Rule 1200-08-11-.14, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-815.

(Rule 1200-08-15-.14, continued)

6. The residential hospice shall develop and periodically review with all employees a pre-arranged plan for the orderly evacuation of all patients and/or residents in case of a fire, internal disaster or other emergency. The plan of evacuation shall be posted throughout the facility. Fire drills shall be held at least quarterly for each work shift for residential hospice personnel in each separate patient/resident-occupied residential hospice building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years.

(b) Emergency Planning with Local Government Authorities.

1. All residential hospices shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each residential hospice must rehearse both the Physical Facility and Community Emergency plan as required in these regulations, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Amendment filed February 9, 1998; effective April 25, 1998. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 22, 2005; effective February 5, 2006.*

1200-08-15-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-15-.15, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-15-.15, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-15-.15, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

(Rule 1200-08-15-.15, continued)

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

~~**Please sign on page 2**~~ ~~Page 1 of 2~~

(Rule 1200-08-15-.15, continued)

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

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____
~~Signature of witness number 1~~

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

_____
~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

~~**WHAT TO DO WITH THIS ADVANCE DIRECTIVE**~~

(Rule 1200-08-15-.15, continued)

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

~~Page 2 of 2~~

~~***Authority:*** *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-1805.* ***Administrative History:*** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes	☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.

(Rule 1200-08-15-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 **Other instructions, such as hospice care, burial arrangements, etc.:**

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

(Rule 1200-08-15-.15, continued)

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-1805.

(Rule 1200-08-24-.13, continued)

(1) Physical Facility and Community Emergency Plans.

(a) Every birthing center shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills.

(b) The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Plans that provide for the relocation of patients to other healthcare facilities must have written agreements for emergency transfers. Their agreements may be mutual, i.e., providing for transfer either way.

(c) Copies of the plan(s), either complete or outlines, shall be available to all staff. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

(d) Drills of the fire safety plan shall be conducted at least once a year on each major work shift, for a minimum of three times a year for each facility. A combined drill of the other internal emergency plans shall be conducted at least once a year. The risk focus may vary by drill. Both types of drills are for the purposes of educating staff, resource determination, testing personal safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

(e) As soon as possible, real situations that result in a response by local authorities must be documented. This includes a critique of the activation of the plan. Actual documented situations that provided educational and training value may be substituted for a drill.

(2) Emergency Planning with Local Government Authorities.

(a) All birthing centers shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(b) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998.*

1200-08-24-.14 APPENDIX I

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

(Rule 1200-08-24-.14, continued)

(This space intentionally left blank)

(Rule 1200-08-24-.14, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:**	**The Basis for These Orders Is:** (Must be completed)
	☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-24-.14, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

(Rule 1200-08-24-.14, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that~~

(Rule 1200-08-24-.14, continued)

~~medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2**~~ ~~Page 1 of 2~~

(Rule 1200-08-24-.14, continued)

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

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

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

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~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

- ~~Provide a copy to your physician(s)~~
- ~~Keep a copy in your personal files where it is accessible to others~~
- ~~Tell your closest relatives and friends what is in the document~~

(Rule 1200-08-24-.14, continued)

- ~~Provide a copy to the person(s) you named as your health care agent~~

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* **Administrative History:** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

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Name: Relation: Home Phone: Work Phone:
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My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

☐ Yes ☐ No	**Permanent Unconscious Condition:** I become totally unaware of people or surroundings with little chance of ever waking up from the coma.
☐ Yes ☐ No	**Permanent Confusion:** I become unable to remember, understand, or make decisions. I do not recognize loved ones or cannot have a clear conversation with them.

(Rule 1200-08-24-.14, continued)

☐ ☐ Yes No	**Dependent in all Activities of Daily Living:** I am no longer able to talk or communicate clearly or move by myself. I depend on others for feeding, bathing, dressing, and walking. Rehabilitation or any other restorative treatment will not help.
☐ ☐ Yes No	**End-Stage Illnesses:** I have an illness that has reached its final stages in spite of full treatment. Examples: Widespread cancer that no longer responds to treatment; chronic and/or damaged heart and lungs, where oxygen is needed most of the time and activities are limited due to the feeling of suffocation.

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Part 3 Other instructions, such as hospice care, burial arrangements, etc.: _____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the _____

(Rule 1200-08-24-.14, continued)

agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____ Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

1200-08-25-.17 APPENDIX I.

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

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(Rule 1200-08-25-.17, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-25-.17, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-25-.17, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

(Rule 1200-08-25-.17, continued)

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

Please sign on page 2

(Rule 1200-08-25-.17, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

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

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

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-25-.17, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~ ~~*Administrative History: Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE* (Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable**

(Rule 1200-08-25-.17, continued)

quality of life).

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Rule 1200-08-25-.17, continued)

_____ (Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____ Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-26-.13, continued)
Amendments filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.

1200-08-26-.14 DISASTER PREPAREDNESS.

(1) All agencies shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The agency shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(2) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000.*

1200-08-26-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-26-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*

CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.

☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**

Section B *Check One Box Only*

MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.

☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.**

☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.**

☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:*_____

Section C *Check One*

ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.

☐ No artificial nutrition by tube.
☐ Defined trial period of artificial nutrition by tube.
☐ Long-term artificial nutrition by tube.

*Other Instructions:*_____

Section D *Must be Completed*

Discussed with:	**The Basis for These Orders Is:** (Must be completed)
☐ Patient/Resident	☐ Patient's preferences
☐ Health care agent	☐ Patient's best interest (patient lacks capacity or preferences unknown)
☐ Court-appointed guardian	☐ Medical indications
☐ Health care surrogate	☐ (Other) _____
☐ Parent of minor	
☐ Other: _____(Specify)	

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date**	**MD/NP/CNS/PA Phone Number:**
	NP/CNS/PA (Signature at Discharge)	

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-26-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-26-.15, continued)

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

~~(2) Advance Care Plan Form~~

~~ADVANCE CARE PLAN~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

(Rule 1200-08-26-.15, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-26-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

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

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

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-26-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.* **Administrative History:** *Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part 1 Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-26-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 **Other instructions, such as hospice care, burial arrangements, etc.:**

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Rule 1200-08-26-.15, continued)

_____ (Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-27-.13, continued)

communicate the existence of the POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

(h) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to then-current law, shall remain valid and shall be given effect as provided in these rules.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed April 28, 2003; effective July 12, 2003. Repeal and new rule filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendments filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-27-.14 DISASTER PREPAREDNESS.

(1) All agencies shall establish and maintain communications with the local office of the Tennessee Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The agency shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

(2) A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000.*

1200-08-27-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-27-.15, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-27-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-27-.15, continued)

(2) Advance Care Plan Form

ADVANCE CARE PLAN
(Tennessee)

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

Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

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

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

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

(Rule 1200-08-27-.15, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-27-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~Organ donation:~~ ~~Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue~~ ~~☐ My entire body~~ ~~☐ Only the following organs/tissues:~~ _____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

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

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

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-27-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~ ~~*Administrative History: Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-27-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Rule 1200-08-27-.15, continued)

_____ (Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-28-.14, continued)

2. Each HIV supportive living facility must rehearse both the Physical Facility and Community Emergency plan as required in these regulations, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed December 15, 2005; effective February 28, 2006.*

1200-08-28-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-28-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____

Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify)	**The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-28-.15, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-28-.15, continued)

~~(2) Advance Care Plan Form~~

~~ADVANCE CARE PLAN~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

(Rule 1200-08-28-.15, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want.**~~

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

~~**Please sign on page 2**~~

(Rule 1200-08-28-.15, continued)

~~Other instructions, such~~

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~

~~☐ No organ/tissue donation.~~

~~**SIGNATURE**~~

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

~~Signature: Date:~~

~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

~~Signature of witness number 1~~

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

~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~

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

~~My commission expires:~~

~~Signature of Notary Public~~

(Rule 1200-08-28-.15, continued)

~~what to do with this advance dIRECTIVE~~

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

~~Page 2 of 2~~

~~**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805. **Administrative History:** Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-28-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

_____ (Patient)

_____

(Rule 1200-08-28-.15, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-32-.14, continued)

(2) In the event of natural disaster or electrical power failure, no new dialysis procedures shall be begun, and dialysis procedures in progress shall be brought to conclusion as soon as possible.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003.*

1200-08-32-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-32-.15, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____
Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify) **The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature** **Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA** **Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-32-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-32-.15, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

(Rule 1200-08-32-.15, continued)

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

Please sign on page 2

(Rule 1200-08-32-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____

~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____

~~Signature of witness number 1~~

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

_____

~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____

~~Signature of Notary Public~~

(Rule 1200-08-32-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority:* T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805. *Administrative History:* Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE* (Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-32-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 **Other instructions, such as hospice care, burial arrangements, etc.:** _____

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Patient)

(Rule 1200-08-32-.15, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-34-.13, continued)

or nurse practitioner or clinical nurse specialist determines cardiopulmonary resuscitation is not medically appropriate.

(d) A POST issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this rule and applicable regulations, qualified emergency medical services personnel; and licensed health care practitioners in any facility, program, or organization operated or licensed by the Board for Licensing Health Care Facilities, the Department of Mental Health and Substance Abuse Services, or the Department of Intellectual and Developmental Disabilities, or operated, licensed, or owned by another state agency, shall follow a POST that is available to such persons in a form approved by the Board for Licensing Health Care Facilities.

(e) Nothing in these rules shall authorize the withholding of other medical interventions, such as medications, positioning, wound care, oxygen, suction, treatment of airway obstruction or other therapies deemed necessary to provide comfort care or alleviate pain.

(f) If a person has a do-not-resuscitate order in effect at the time of such person's discharge from a health care facility, the facility shall complete a POST prior to discharge. If a person with a POST is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the POST to qualified emergency medical service personnel and to the receiving facility prior to the transfer. The transferring facility shall provide a copy of the POST that accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the POST a part of the patient's record.

(g) These rules shall not prevent, prohibit, or limit a physician from using a written order, other than a POST, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This action shall have no application to any do not resuscitate order that is not a POST, as defined in these rules.

(h) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to then-current law, shall remain valid and shall be given effect as provided in these rules.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-224, and 68-11-1801 through 68-11-1815.* ***Administrative History:*** *Original rule filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-08-34-.14 RESERVED.

1200-08-34-.15 APPENDIX I

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

(Rule 1200-08-34-.15, continued)

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(Rule 1200-08-34-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____
Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify) **The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	Physician/NP/CNS/PA Signature Date	MD/NP/CNS/PA Phone Number:
	NP/CNS/PA (Signature at Discharge)	

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

(Rule 1200-08-34-.15, continued)

Name (print)	Signature	Relationship (write "self" if patient)	
Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-34-.15, continued)

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

(Rule 1200-08-34-.15, continued)

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-34-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____
~~Signature of witness number 1~~

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

_____
~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-34-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~ ~~*Administrative History: Original rule filed February 16, 2007; effective May 2, 2007. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable**

(Rule 1200-08-34-.15, continued)

quality of life).

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

(Rule 1200-08-34-.15, continued)

Signature: _____ Date: _____

_____ (Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

(Rule 1200-08-35-.14, continued)

2. Evacuation procedures.

(c) Flood Procedure Plan, if applicable:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures following the flood.

(d) Earthquake Disaster Procedures Plan:

1. Staff duties;

2. Evacuation procedures;

3. Safety procedures;

4. Emergency services.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006.*

1200-08-35-.15 APPENDIX I

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

(This space intentionally left blank)

(Rule 1200-08-35-.15, continued)

A COPY OF THIS FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST")	Patient's Last Name
This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	First Name/Middle Initial
	Date of Birth

Section A *Check One Box Only*

CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.

☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)**

When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**

Section B *Check One Box Only*

MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.

☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.**

☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.**

☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.**

*Other Instructions:*_____

Section C *Check One*

ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.

☐ No artificial nutrition by tube.
☐ Defined trial period of artificial nutrition by tube.
☐ Long-term artificial nutrition by tube.

*Other Instructions:*_____

Section D *Must be Completed*

Discussed with:	**The Basis for These Orders Is:** (Must be completed)
☐ Patient/Resident	☐ Patient's preferences
☐ Health care agent	☐ Patient's best interest (patient lacks capacity or preferences unknown)
☐ Court-appointed guardian	☐ Medical indications
☐ Health care surrogate	☐ (Other) _____
☐ Parent of minor	
☐ Other: _____(Specify)	

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-35-.15, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

COPY OF FORM SHALL ACCOMPANY PATIENT WHEN TRANSFERRED OR DISCHARGED.

(Rule 1200-08-35-.15, continued)

~~(2) Advance Care Plan Form~~

~~**ADVANCE CARE PLAN**~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.~~

(Rule 1200-08-35-.15, continued)

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

~~**Please sign on page 2**~~ ~~Page 1 of 2~~

(Rule 1200-08-35-.15, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____
~~Signature of witness number 1~~

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

_____
~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-35-.15, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~
~~*Administrative History: Original rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).

(Rule 1200-08-35-.15, continued)

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

_____ (Patient)

_____

(Rule 1200-08-35-.15, continued)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____
Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

1200-08-36-.18 APPENDIX I.

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

(This space intentionally left blank)

(Rule 1200-08-36-.18, continued)

Tennessee Physician Orders for Scope of Treatment (POST, sometimes called "POLST") This is a Physician Order Sheet based on the medical conditions and wishes of the person identified at right ("patient"). Any section not completed indicates full treatment for that section. When need occurs, first follow these orders, then contact physician.	Patient's Last Name First Name/Middle Initial Date of Birth

Section A *Check One Box Only*	**CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.** ☐ **Resuscitate(CPR)** ☐ **Do Not Attempt Resuscitation (DNR / no CPR) (Allow Natural Death)** When not in cardiopulmonary arrest, follow orders in **B, C,** and **D.**
Section B *Check One Box Only*	**MEDICAL INTERVENTIONS. Patient has pulse and/or is breathing.** ☐ **Comfort Measures Only.** Relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital for life-sustaining treatment. Transfer only if comfort needs cannot be met in current location. Treatment Plan: Maximize comfort through symptom management.** ☐ **Limited Additional Interventions.** In addition to care described in Comfort Measures Only above, use medical treatment, antibiotics, IV fluids and cardiac monitoring as indicated. No intubation, advanced airway interventions, or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). **Transfer** to hospital if indicated. Generally avoid the intensive care unit. **Treatment Plan: basic medical treatments.** ☐ **Full Treatment.** In addition to care described in Comfort Measures Only and Limited Additional Interventions above, use intubation, advanced airway interventions, and mechanical ventilation as indicated. **Transfer** to hospital and/or intensive care unit if indicated. **Treatment Plan: Full treatment including in the intensive care unit.** *Other Instructions:*_____
Section C *Check One*	**ARTIFICIALLY ADMINISTERED NUTRITION. Oral fluids & nutrition must be offered if feasible.** ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube. *Other Instructions:*_____
Section D *Must be Completed*	**Discussed with:** ☐ Patient/Resident ☐ Health care agent ☐ Court-appointed guardian ☐ Health care surrogate ☐ Parent of minor ☐ Other: _____(Specify) **The Basis for These Orders Is:** (Must be completed) ☐ Patient's preferences ☐ Patient's best interest (patient lacks capacity or preferences unknown) ☐ Medical indications ☐ (Other) _____

Physician/NP/CNS/PA Name (Print)	**Physician/NP/CNS/PA Signature Date** NP/CNS/PA (Signature at Discharge)	**MD/NP/CNS/PA Phone Number:**

Signature of Patient, Parent of Minor, or Guardian/Health Care Representative

Preferences have been expressed to a physician and/or health care professional. It can be reviewed and updated at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your preferences as best understood by your surrogate.

Name (print)	Signature	Relationship (write "self" if patient)

(Rule 1200-08-36-.18, continued)

Agent/Surrogate	Relationship	Phone Number	
Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared

Directions for Health Care Professionals

Completing POST

Must be completed by a health care professional based on patient preferences, patient best interest, and medical indications.

To be valid, POST must be signed by a physician or, at discharge or transfer from a hospital or long term care facility, by a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA). Verbal orders are acceptable with follow-up signature by physician in accordance with facility/community policy.

Persons with DNR in effect at time of discharge must have POST completed by health care facility prior to discharge and copy of POST provided to qualified medical emergency personnel.

Photocopies/faxes of signed POST forms are legal and valid.

Using POST

Any incomplete section of POST implies full treatment for that section.

No defibrillator (including AEDs) should be used on a person who has chosen "Do Not Attempt Resuscitation".

Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, the person, including someone with "Comfort Measures Only", should be transferred to a setting able to provide comfort (e.g., treatment of a hip fracture).

IV medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only".

Treatment of dehydration is a measure which prolongs life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment".

A person with capacity, or the Health Care Agent or Surrogate of a person without capacity, can request alternative treatment.

Reviewing POST

This POST should be reviewed if:

(1) The patient is transferred from one care setting or care level to another, or
(2) There is a substantial change in the patient's health status, or
(3) The patient's treatment preferences change.

Draw line through sections A through D and write "VOID" in large letters if POST is replaced or becomes invalid.

(Rule 1200-08-36-.18, continued)

DO NOT ALTER THIS FORM

~~(2) Advance Care Plan Form~~

~~ADVANCE CARE PLAN~~
~~(Tennessee)~~

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

~~**Agent:** I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~**Alternate Agent:** If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:~~

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

~~My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.~~

~~**When Effective** (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).~~

~~**Quality of Life:** By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "no" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable** quality of life).~~

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

~~**Treatment:** If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that~~

(Rule 1200-08-36-.18, continued)

~~medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "no" below, I have indicated treatment I **do not want**.~~

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

~~**Please sign on page 2** Page 1 of 2~~

(Rule 1200-08-36-.18, continued)

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

_____

_____

_____

_____

_____

_____

~~(Attach additional pages if necessary)~~

~~**Organ donation:** Upon my death, I wish to make the following anatomical gift (mark one):~~

~~☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues:~~ _____

_____

_____

_____

_____

~~☐ No organ/tissue donation.~~

~~SIGNATURE~~

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

~~Signature:~~ _____ ~~Date:~~ _____
~~(Patient)~~

~~Witnesses:~~

~~1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.~~

_____
~~Signature of witness number 1~~

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

_____
~~Signature of witness number 2~~

~~This document may be notarized instead of witnessed:~~

~~STATE OF TENNESSEE~~
~~COUNTY OF~~ _____

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

~~My commission expires:~~ _____ _____
~~Signature of Notary Public~~

(Rule 1200-08-36-.18, continued)

~~WHAT TO DO WITH THIS ADVANCE DIRECTIVE~~

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

~~Page 2 of 2~~

~~*Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.*~~ ~~*Administrative History: Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011. Repeal and new rule filed August 28, 2012; effective November 26, 2012. Amendment filed March 27, 2015; effective June 25, 2015.*~~

(2) Advance Directive for Health Care Form

ADVANCE DIRECTIVE FOR HEALTH CARE*
(Tennessee)

Instructions: Parts 1 and 2 may be used together or independently. Please mark out/void any unused part(s). Part 5, Block A or Block B must be completed for all uses.

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

Part I Agent: I want the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

Alternate Agent: If the person named above is unable or unwilling to make health care decisions for me, I appoint as alternate the following person to make health care decisions for me. This includes any health care decision I could have made for myself if able, except that my agent must follow my instructions below:

Name: Relation: Home Phone: Work Phone:
Address: Mobile Phone: Other Phone:

My agent is also my personal representative for purposes of federal and state privacy laws, including HIPAA.

When Effective (mark one): ☐ I give my agent permission to make health care decisions for me at any time, even if I have capacity to make decisions for myself. ☐ I do not give such permission (this form applies only when I no longer have capacity).

Part 2 Indicate Your Wishes for Quality of Life: By marking "yes" below, I have indicated conditions I would be willing to live with if given adequate comfort care and pain management. By marking "**no**" below, I have indicated conditions I would not be willing to live with (that to me would create an **unacceptable**

(Rule 1200-08-36-.18, continued)

quality of life).

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

Indicate Your Wishes for Treatment: If my quality of life becomes unacceptable to me (as indicated by one or more of the conditions marked "no" above) and my condition is irreversible (that is, it will not improve), I direct that medically appropriate treatment be provided as follows. By marking "yes" below, I have indicated treatment I want. By marking "**no**" below, I have indicated treatment I **do not want**.

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☐ Yes ☐ No	**Life Support / Other Artificial Support:** Continuous use of breathing machine, IV fluids, medications, and other equipment that helps the lungs, heart, kidneys, and other organs to continue to work.
☐ Yes ☐ No	**Treatment of New Conditions:** Use of surgery, blood transfusions, or antibiotics that will deal with a new condition but will not help the main illness.
☐ Yes ☐ No	**Tube feeding/IV fluids:** Use of tubes to deliver food and water to a patient's stomach or use of IV fluids into a vein, which would include artificially delivered nutrition and hydration.

Part 3 Other instructions, such as hospice care, burial arrangements, etc.:

_____

_____

_____

_____

_____

_____

_____

(Attach additional pages if necessary)

Part 4 Organ donation: Upon my death, I wish to make the following anatomical gift for purposes of transplantation, research, and/or education (mark one):

☐ Any organ/tissue ☐ My entire body ☐ Only the following organs/tissues: _____

_____

☐ No organ/tissue donation

SIGNATURE

Part 5 Your signature must **either** be witnessed by two competent adults ("Block A") **or** by a notary public ("Block B").

Signature: _____ Date: _____

(Rule 1200-08-36-.18, continued)

_____ (Patient)

Block A Neither witness may be the person you appointed as your agent or alternate, and at least one of the witnesses must be someone who is not related to you or entitled to any part of your estate.

Witnesses:

1. I am a competent adult who is not named as the agent or alternate. I witnessed the patient's signature on this form.

_____
Signature of witness number 1

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

_____
Signature of witness number 2

Block B You may choose to have your signature witnessed by a notary public instead of the witnesses described in Block A.

STATE OF TENNESSEE
COUNTY OF _____

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

My commission expires: _____

_____ Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE: (1) provide a copy to your physician(s); (2) keep a copy in your personal files where it is accessible to others; (3) tell your closest relatives and friends what is in the document; and (4) provide a copy to the person(s) you named as your health care agent.

* This form replaces the old forms for durable power of attorney for health care, living will, appointment of agent, and advance care plan, and eliminates the need for any of those documents.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-11-224, and 68-11-1805.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Carissa S. Lynch, Pharm.D.	X				
Michael R. Miller				X	
Renee Saunders, M.D.	X				
Thomas Gee	X				
John A. Marshall	X				
Jennifer Gordon-Maloney, DDS	X				
Kenneth R. Robertson, M.D.	X				
Sherry Robbins, M.D.	X				
Annette Marlar	X				
Robert C. Breeden	X				
Roger L. Mynatt				X	
Janet Williford	X				
David Rhodes	X				
Joshua A. Crisp	X				
Paul Boyd	X				
Bobby Wood	X				
Jim Shulman	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Licensing Health Care Facilities (board/commission/ other authority) on 09/07/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *05/03/16 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *09/07/16 (mm/dd/yy)*

Date: 1/20/17

Signature: Kyonzté Hughes-Toombs

Name of Officer: Kyonzté Hughes-Toombs

Title of Officer: Deputy General Counsel
Department of Health

Subscribed and sworn to before me on: 1-20-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: MY COMMISSION EXPIRES APRIL 19, 2017

SUZANNE MECHKOWSKI
STATE OF TENNESSEE
NOTARY PUBLIC
SUMNER COUNTY

Board for Licensing Health Care Facilities Rules
Rules 1200-08-01. et. seq.
Rules for Various Health Care Facilities
Advance Care Plan Form

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

2/1/2017
Date

Department of State Use Only

Filed with the Department of State on: 2-8-17

Effective on: 5-9-17

Tre Hargett
Secretary of State

RECEIVED
2017 FEB -8 PM 3: 31
SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Commerce and Insurance
DIVISION:	Board of Examiners for Land Surveyors
SUBJECT:	Global Position Systems Surveys
STATUTORY AUTHORITY:	No federal or state law or regulation mandated the promulgated of the rule or established guidelines relevant thereto.
EFFECTIVE DATES:	May 9, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This proposed rule creates standards in applying Global Positioning Systems "GPS" technology to the practice of Land Surveying.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules will affect more than 500 licensed land surveying entities across the state of Tennessee. The vast majority of these entities are considered small businesses.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The projected reporting, recordkeeping, and other administrative costs will be expected to be kept at minimum in order to be in compliance with the proposed rule. According to the existing rules, it shall be acceptable practice to incorporate the use of GPS equipment into any survey, but the use of GPS is not a mandatory practice for land surveyors. Tenn. Comp. R. & Regs. 0820-03-.07(c). Therefore, no new professional skills will be required by any licensee to be in compliance with the new rule.

(3) A statement of the probable effect on impacted small businesses and consumers;

The effect on small businesses will be positive. These rules develop and implement a reporting system designed to establish a standard of practice with an emphasis on increased accuracy for the use of GPS equipment in land surveying. The rule will also have a positive impact on consumers by ensuring that land surveyors who utilize GPS equipment will be able to conduct a more accurate survey for the consumer.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules.

(5) A comparison of the proposed rule with any federal or state counterparts; and

There are no federal counterparts to the proposed rule. The proposed rule shares similarities with the following rules from different states: Ga. Comp. R. & Regs. R. 180-7-.09 (Georgia); 201 KAR 18:150 § 8 (Kentucky); 21 NCAC 56.1607 (North Carolina); 36 S.C. Code Ann. Regs.49-460 (D)(4) (South Carolina).

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There is no possibility for small businesses to be exempt from all or any part of the requirements contained in the proposed rule. The rule is meant to increase the accuracy of land surveys conducted via GPS. Therefore, allowing any small business an exemption from the rule would be counterproductive.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rules will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

A new rule is proposed for creating standards in applying Global positioning Systems "GPS" technology to the practice of Land Surveying.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed land surveyors will be directly affected by this rule. The creation of this rule is the Board's response to stakeholder's concerns that had been specifically expressed to members of the Board in their capacity as individual licensed land surveyors and as members of the Board.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None known.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

None.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Laura Martin, Assistant General Counsel
Roxana Gumucio, executive Director

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Laura Martin, Assistant General Counsel
Roxana Gumucio, executive Director

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Laura Martin
500 James Robertson Parkway
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Nashville, Tennessee 37243
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Nashville, TN 37243
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(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

None known.

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For Department of State Use Only

Sequence Number: 02-06-17
Rule ID(s): 6432
File Date: 2/8/17
Effective Date: 5/9/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Board of Examiners for Land Surveyors
Division:	Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person:	Laura Martin
Address:	500 James Robertson Parkway; Nashville, TN 37243
Phone:	(615) 253-3702
Email:	laura.martin@tn.gov

Revision Type (check all that apply):

___ Amendment
x New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0820-03	Standards of Practice
Rule Number	Rule Title
0820-03-.11	Global Position Systems Surveys

{redline}

Chapter 0820-03
Rules of Tennessee State Board of Examiners for Land Surveyors

New Rule

TABLE OF CONTENTS

Table of contents is amended to add new rules 0820-03-.11 Global Position Systems Surveys, so that it shall read as follows;

0820-03-.01 Applicability
0820-03-.02 General
0820-03-.03 Definitions
0820-03-.04 Reserved
0820-03-.05 Accuracy of Surveys
0820-03-.06 Maps and Mapping
0820-03-.07 Survey Types and Requirements
0820-03-.08 Making of Property Boundaries
0820-03-.09 Land Descriptions
0820-03-.10 Instruments and Apparatus
0820-03-.11 Global Position Systems Surveys

Rule 0820-03-.11 Global Position Systems Surveys is added to chapter 0820-03 and shall read as follows:

0820-03-.11 Global Position Systems Surveys

(1) Global Positioning Systems (GPS) are defined as the navigation and positioning systems that comprise the Global Navigation Satellite System (GNSS), which includes NAVSTAR, GLONASS, GALILEO, COMPASS, and any other satellite-based navigation and positioning systems.

(2) The professional Land Surveyor in responsible charge of the GPS survey shall certify all prepared documents. When a map or document consists of more than one (1) sheet, only one sheet must contain the certificate and all others must be certified. The certificate or metadata notes shall contain the following information:

(a) Type of GPS field procedure, such as Static, Kinematic, Psuedo-Kinematic, Real-time Kinematic, Real-time Kinematic networks, and Online Position User Service;

(b) Positional accuracy;

(c) Dates of survey;

(d) What datum and epoch coordinates or geographic positions are based on;

(e) Designation of fixed-control stations and their positional data;

(f) Geoid model used and;

(g) Combined grid factor(s).

(3) The certificate shall be substantially in the following form ;

Positional accuracy: _____
Type of GPS field procedure: _____
Dates of survey: _____
Datum/Epoch: _____
Published/Fixed-control use: _____
Geoid Model: _____
Combined grid factor(s): _____

(4) GPS surveys performed to provide control networks shall be performed in such a manner that a ninety-five percent (95%)confidence level of the positional accuracy of each point relative to the published positions of the control points used.

(5) Fixed station(s) used for the project shall appear on the map, plat, or report. The minimum data shown for each fixed station shall be station name, horizontal position (northing and easting) or latitude, longitude, elevation (ellipsoid or orthometric), and datum and epoch.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Tim Lingerfelt	x				
Jay Caughman	x				
Galyon Northcutt	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (*board/commission/other authority*) on July 28th, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 1/18/17

Signature: Laura E. Martin

Name of Officer: Laura Martin

Title of Officer: Assistant General Counsel

VANESSA HUNTSMAN STATE OF TENNESSEE NOTARY PUBLIC SUMNER COUNTY MY COMMISSION EXPIRES 11-21-2017

Subscribed and sworn to before me on: 01/18/2017

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

2/2/2017
Date

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Filed with the Department of State on: 2/8/17

Effective on: 5/9/17

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Health
DIVISION:	Board of Medical Examiners
SUBJECT:	General Rules and Regulations Governing the Practice of Medicine
STATUTORY AUTHORITY:	T.C.A. § 63-6-101 and T.C.A. § 63-6-207
EFFECTIVE DATES:	May 2, 2017 through June 30, 2018
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The amendment to Rule 0880-02-.08 [Examinations] creates exceptions to the new statutory limit of ten (10) years to complete all steps of the USMLE for those physicians who are board-certified; those who have been in active clinical practice in another state for at least one year and have held a full, unencumbered license in that state for at least one year after completion of all steps of the USMLE; and those who present evidence of extraordinary circumstances as determined by the Board which prevent the applicant from completing the steps timely. The amendment to Rule 0080-02-.11 [Officers, Records, Meeting Requests, Certificates of Fitness, Advisory Rulings, Declaratory Orders and Screening Panels] adds language requiring the election of officers every two (2) years.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments, either written or oral.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

1. **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

   These rules do not overlap, duplicate, or conflict with other state or local governmental rules.

2. **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

   These rules exhibit clarity, conciseness, and lack of ambiguity.

3. **The establishment of flexible compliance and/or reporting requirements for small business.**

   The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

   The compliance requirements contained in the rules are the same for large or small businesses. The rule amendments regarding Rule 0880-02-.08 do not establish new reporting requirements.

4. **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

   The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

   The amendments to Rule 0880-02-.08 do contain friendly reporting requirements.

5. **The consolidation or simplification of compliance or reporting requirements for large or small businesses.**

   The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

   Compliance requirements contained in the rules are the same for large or small businesses. The rule amendments regarding Rule 0880-02-.08 do not establish new reporting requirements.

6. **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rules.**

   These rules do not establish performance, design, or operational standards.

7. **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

   These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Medical Examiners

Rulemaking hearing date: July 19, 2016

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   The amendment to Rule 0880-02-.08 should have a positive effect on large and small businesses as it creates statutorily authorized exceptions to the statutory requirement to complete all steps the USMLE within ten (10) years. As such, it will make it easier to recruit physicians to Tennessee.

   The amendment to Rule 0880-02-.11 will affect the Board of Medical Examiners which is composed of twelve (12) members pursuant to T.C.A. § 63-6-101. The Board, as well as members of the public attending the board meetings, will benefit from the proposed rule as the rule will specify a time period in which the Board must elect officers to make the process run more efficiently and effectively during the board meetings. I recommend approval of this rule amendment.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   These rules should not result in any additional reporting, recordkeeping or other administrative costs except those associated with documenting the change in officers in rule amendment 0880-02-.11 which is a minor administrative task.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   While the amendment to Rule 0880-02-.11 should not have any effect on small business or consumers, the amendment to Rule 0880-02-.08 should have a positive effect on large and small businesses as it creates statutorily authorized exceptions to the statutory requirement to complete all steps the USMLE within ten (10) years. As such, it will make it easier to recruit physicians to Tennessee.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   The amendments should not create any new costs.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: There are no federal or state counterparts for these amendments.

   With respect to the amendment to Rule 0880-02-.11, many other health-related boards have specified times in which Board members must elect officers. The Board of Dispensing Opticians currently requires the Board to elect officers every two (2) years, while the Board of Dentistry, the Board of Professional Counselors, the Board of Nursing Home Examiners, the Board of Optometry, and the Board of Respiratory Care requires the election to be made annually. Additionally, the Board of Athletic Trainers requires the election of officers to be made every three (3) years. However, there are other Boards which do not specify such a time requirement anywhere in the rules.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

These amendments do not provide for exemptions for small businesses and the amendments to Rule 0880-02-.11 should not affect small businesses or consumers except to benefit them.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendment to Rule 0880-02-.08 [Examinations] creates exceptions to the new statutory limit of ten (10) years to complete all steps of the UMSLE for those physicians who are board-certified; those who have been in active clinical practice in another state for at least one year and have held a full, unencumbered license in that state for at least one year after completion of all steps of the USMLE; and those who present evidence of extraordinary circumstances as determined by the Board which prevent the applicant from completing the steps timely.

The amendment to Rule 0880-02-.11 [Officers, Records, Meeting Requests, Certificates of Fitness, Advisory Rulings, Declaratory Orders and Screening Panels] adds language requiring the election of officers every two (2) years.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 63-6-207 and T.C.A. § 63-6-101

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The amendment to Rule 0880-02-.08 will affect applicants who required in excess of ten (10) years to successfully complete all steps of the USMLE but who will now meet one of the exceptions, allowing them to now be licensed in Tennessee.

The amendment to Rule 0880-02-.11 will affect the Board of Medical Examiners which is composed of twelve (12) members pursuant to T.C.A. § 63-6-101.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Andrea Huddleston, Chief Deputy General Counsel, Department of Health and Michael Zanolli, M.D., President, Tennessee Board of Medical Examiners.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Andrea Huddleston, Chief Deputy General Counsel, Department of Health and Michael Zanolli, M.D., President, Tennessee Board of Medical Examiners.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Andrea.Huddleston@tn.gov and Tennessee Board of Medical Examiners, Division of Health Related Boards, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243, (615) 741-8402, mzanolli@mac.com.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Sequence Number: 02-02-17
Rule ID(s): 6417
File Date: 02/01/17
Effective Date: 05/02/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Medical Examiners
Division:	
Contact Person:	Andrea Huddleston, Chief Deputy General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Andrea.Huddleston@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0880-02	General Rules and Regulations Governing the Practice of Medicine
Rule Number	**Rule Title**
0880-02-.08	Examination
0880-02-.11	Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory Rulings, Declaratory Orders And Screening Panels

(Rule 0880-02-.07, continued)

(c) Any physician holding a Locum Tenens license shall notify the Board of the location and duration of each Tennessee practice as soon as reasonably possible under the circumstances before that practice occurs.

(d) All Locum Tenens licenses must be renewed, inactivated or retired according to the same procedure as active unrestricted licenses.

(e) All Locum Tenens licenses are subject to discipline for the same causes and pursuant to the same procedures as active unrestricted licenses.

(f) Any person holding a Locum Tenens license who practices in this state for a period of time in any one year that the Board in its discretion feels is inordinate for the purposes of this licensure status may have his or her Locum Tenens license revoked or be required to apply for a full active license.

(7) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: *T.C.A. §§ 4-5-102 (3), 4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-201 (a), 63-6-207, 63-6-208, 63-6-209, 63-6-210, 63-6-211, 63-6-214, 63-6-214 (a), (c), (d), and (j), 63-6-216, 63-6-230, and 63-6-233.* ***Administrative History:*** *Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed November 27, 1991; effective February 26, 1992. Amendment filed January 21, 1993; effective March 7, 1993. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed April 16, 1999; effective June 30, 1999. Amendment filed January 4, 2002; effective March 20, 2002. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed May 28, 2003; effective August 11, 2003. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed August 23, 2005; effective November 6, 2005. Amendments filed March 14, 2006; effective May 28, 2006.*

0880-02-.08 EXAMINATION. All persons intending to apply for licensure as a physician in Tennessee must successfully complete a written examination pursuant to this rule. Such written examination must be completed prior to application for licensure. Certification of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in rule 0880-02-.03, 0880-02-.04 and 0880-02-.05.

(1) The Board adopts FLEX, USMLE and the National Board of Medical Examiners (NBME) examination as its written licensure examinations. Successful completion of one of those examinations is a prerequisite to licensure according to the following:

(a) After December 31, 1999, with the exception of applicants applying pursuant to Rule 0880-02-.05, the only examination acceptable for licensure is the USMLE Steps 1, 2 and 3.

(b) The Board will accept any of the following examinations or combinations of examinations if completed prior to December 31, 1999:

1. The NBME Parts I, II and III; or

(Rule 0880-02-.08, continued)

2. FLEX Components I and II; or

3. Predecessor FLEX Days I, II and III; or

4. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
NBME Part III or USMLE Step 3; or

5. FLEX Component I plus USMLE Step 3; or

6. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
FLEX Component II

7. Combinations of the Predecessor FLEX Days I, II and III are not allowed with any other examination.

(2) Passing Scores - The Board accepts the following scores as constituting successful completion of the licensure examinations:

(a) The Board adopts the NBME's and the USMLE's determination of the passing scores for each Part or Step of their examinations.

(b) The passing scores adopted by the Board for the FLEX examinations are as follows:

1. FLEX I and II
Component I = 75
Component II = 75

2. Predecessor FLEX Days I, II and III - A FLEX weighted average (FWA) of 75 or greater.

(c) If an applicant fails any step of the USMLE or FLEX examinations more than three (3) times, then the Board shall require proof of board-certification by an ABMS-recognized specialty board and proof of meeting requirements for Maintenance of Certification prior to application before consideration for licensure.

(3) Oral examination may be required pursuant to Rule 0880-02-.07(4). The Board may also, in its discretion, require an applicant for licensure to take and pass the SPEX examination prepared by the FSMB. The circumstances under which the Board may require the SPEX examination include, but are not limited to, applicants for licensure who have been disciplined in another state; applicants who would be subject to discipline in Tennessee based on their conduct or condition; or applicants who have not engaged in the clinical practice of medicine for more than two (2) years.

(4) Deadlines - An applicant must have achieved passing scores on the licensure examinations within the following time frames:

~~(a) FLEX and Predecessor FLEX and NBME - Seven (7) years from the date on which either the Day I or Component I or Part I of the examinations was taken.~~

(Rule 0880-02-.08, continued)

(a) FLEX and Predecessor FLEX and NBME – Ten (10) years from the date on which either the Day I or Component I or Part I of the examinations was taken.

~~(b) USMLE – Seven (7) years from the date of whichever step of the examination was successfully completed first.~~

(b) USMLE – Ten (10) years from the date of whichever step of the examination was successfully completed first.

~~(c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the seven (7) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a seven (7) year time period.~~

(c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the ten (10) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a ten (10) year time period.

~~(d) The seven (7) year limitation for the USMLE contained in subparagraph (4) (b) of this rule will not apply to applicants who~~

(d) The ten (10) year limitation for the USMLE contained in subparagraph (4) (b) of this rule will not apply to applicants who:

1. Are or have been working towards both an M.D. and Ph.D. degree in an institution or program accredited by the Association of American Medical Colleges' Liaison Committee on Medical Education and regional university accrediting body; and

2. Was or is a student in good standing, who was or is enrolled in the institution or program; and

3. Ph.D. studies are in a field of biological sciences tested on Step 1 of the USMLE. (These fields include but are not limited to anatomy, biochemistry, physiology, microbiology, pharmacology, pathology, genetics, neuroscience, and molecular biology. Fields explicitly not included are business, economics, ethics, history, and other fields not directly related to biological science); and

~~4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the seven (7) year limit.~~

4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the ten (10) year limit.

~~(e) Extensions – The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in~~

(Rule 0880-02-.08, continued)

~~calculating the seven (7) year limitation for the USMLE contained in subparagraph (4)(b) of this rule.~~

(e) Extensions- The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in calculating the ten (10) year limitation for the USMLE contained in subparagraph (4)(b) of this rule. Further, the ten (10) year limitation for the USMLE will not apply to applicants who:

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1. Are board- certified at the time of application by a board recognized by the American Board of Medical Specialties; or

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2. Have been and are at the time of application currently in active clinical practice in a single state or territory for a period of at least one year and have held a full, unencumbered license in that state for at least one year since successfully completing the USMLE; or

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3. Present satisfactory evidence of extraordinary circumstances as determined by the Board which prevented the applicant from timely completing the steps.

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(5) All applicants for the USMLE shall submit all application inquiries, applications, fees and all necessary admission documentation, including evidence satisfactory to the USMLE administering agency of successful completion of a one (1) year post graduate medical educational training program for applicants for Step 3 of that examination, directly to the USMLE administering agency. The Board does not distribute or process applications for the USMLE.

(6) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-207.* ***Administrative History:*** *Original rule filed February 26, 1991; effective April 12, 1991. Amendment filed January 10, 1992; effective February 24, 1992. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 4, 1998; effective November 11, 1998. Amendment filed August 25, 2000; effective November 8, 2000. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed July 27, 2006; effective October 10, 2006. Amendment filed April 17, 2007; effective July 1, 2007. Amendment filed May 27, 2008; effective August 10, 2008. Amendments filed January 26, 2015; effective April 26, 2015.*

0880-02-.09 LICENSURE RENEWAL AND REINSTATEMENT.

(1) All licensees must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:

(a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-01-.10.

(b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:

(Rule 0880-02-.10, continued)

(4) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-210, 63-6-230, and 63-6-233.* ***Administrative History:*** *Original rule filed September 28, 1990; effective November 12, 1990. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed July 10, 1997; effective September 23, 1997. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed March 22, 2006; effective June 5, 2006.*

0880-02-.11 OFFICERS, RECORDS, MEETING REQUESTS, CERTIFICATES OF FITNESS, REPLACEMENT LICENSES, CONSULTANTS, ADVISORY RULINGS, DECLARATORY ORDERS AND SCREENING PANELS.

~~(1) Officers - The Board shall elect from its members the following officers:~~

~~(a) President - who shall preside at all Board meetings and who shall serve until the expiration of his or her term(s) on the Board. At the conclusion of the President's term(s), new elections for all officers shall be held.~~

~~(b) Vice President - who shall preside at Board meetings in the absence of the President and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.~~

~~(c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.~~

~~(d) Panel Chairperson - A Board member appointed by the President of the Board to preside over the Board business assigned to any panel of the Board established pursuant to T.C.A. § 63-6-103 (b).~~

(1) Officers - The Board shall elect every second year from its members the following officers who shall hold office for two years or until the election of a successor who shall fulfill the remainder of the predecessor's term:

(a) President - who shall preside over all Board meetings.

(b) Vice President - who shall preside over Board meetings in the absence of the President.

(c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board.

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(2) Records and Requests -

(a) Minutes of the board meetings and all records, documents, applications, and correspondence will be maintained in the Board's Administrative Offices.

(Rule 0880-02-.11, continued)

(b) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board's administrative office.

(c) Meeting Agenda Deadline - With the exception of documents relating to disciplinary actions, declaratory orders or hearing requests, any requests or inquiries requiring a Board decision or official Board action must be received in the Board's administrative office fourteen (14) days prior to a scheduled Board meeting. Requests or inquiries timely received will be retained in the administrative office and presented to the Board at the Board meeting. Requests or inquiries not timely received shall be set over to the next Board meeting.

(3) Requests for Certificate of Fitness or Duplicate or Replacement Licenses -

(a) Requests for certificates of fitness for licensees desiring to practice in another state must be made in writing to the Board Administrative Office.

(b) Requests for duplicate or replacement licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 0880-02-.02.

(4) Consultants - The Board members or a physician designated by the Board are individually vested with authority as consultants to the Board to do the following acts:

(a) Review and make recommendations on licensure, certification, exemption, renewal, reinstatement and reactivation applications subject to the rules governing those respective applications.

(b) Decide the following:

1. What, if any, investigation should be instituted upon complaints received by the Division.

2. Whether a licensee who is the subject of a complaint received and/or an investigation conducted by the Division is an appropriate candidate pursuant to Board established guidelines for diversion to a professional peer review organization and/or impaired professional association.

3. What, if any, disciplinary actions should be instituted upon investigations conducted by the Division.

4. What, if any, terms of settlements should be offered in formal disciplinary matters based upon investigations conducted by the Division. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.

5. Whether and under what terms a complaint, case or disciplinary action might be settled. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.

(5) The chair(s) of any acting panel(s) of the Board, are authorized to make determinations regarding stays pursuant to rule 1360-04-01-.18 and reconsiderations filed in contested case matters heard before the panel on which they serve. If the contested case is heard before the full Board, the President is authorized to make those determinations.

(6) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 6 of Title 63 of the Tennessee

(Rule 0880-02-.11, continued)

Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. § 63-6-101 (a)(4). The procedures for obtaining and issuance of advisory rulings are as follows:

(a) The licensee shall submit the request to the Board Administrative Office on the form contained in paragraph (6)(e) providing all the necessary information; and

(b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's Medical Director and advisory attorney; and

(c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and

(d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such affect as is set forth in T.C.A. § 63-6-101 (a)(4).

(e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Board of Medical Examiners
Request for Advisory Ruling

Date:_____
Licensee's Name: _____
Licensee's Address:_____
_____
_____ Zip Code_____
License Number:_____

1. The specific question or issue for which the ruling is requested:
_____
_____

2. The facts that gave rise to the specific question or issue:
_____
_____
_____
_____

3. The specific statutes and/or rules which are applicable to the question or issue:
_____
_____
_____
_____

_____
Licensee's Signature

Mail or Deliver to:
Administrator, Tennessee Board of Medical Examiners
665 Mainstream Drive
Nashville, TN 37243

(Rule 0880-02-.11, continued)

(7) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

(8) Screening Panels - Any screening panel(s) established pursuant to T.C.A. § 63-6-214 (i):

(a) Shall have concurrent authority with the Board members and any individual physician designated by the Board pursuant to paragraph (4), to do the acts enumerated in paragraph (4) (b) subject to the conditions contained therein.

1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.

2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.

(b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation but only with the agreement of the state, or upon request of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.

1. Neither the Rules of Civil Procedure, the Rules of Alternative Dispute Resolution, the Rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).

(i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.

(ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.

2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.

3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.

4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.

5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:

(i) Approved by a majority of the members of the screening panel which issued them; and

(Rule 0880-02-.11, continued)

(ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and

(iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

Authority: *T.C.A. §§ 4-5-105, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-118 (b), 63-1-106 (c), 63-6-101, 63-6-101 (a), 63-6-103, 63-6-201, 63-6-207, 63-6-209, 63-6-210, 63-6-211, 63-6-212, 63-6-213, and 63-6-214.* ***Administrative History:*** *Original Rule filed February 26, 1991; effective April 12, 1991. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed April 16, 1999; effective June 30, 1999. Withdrawal to Amendment of rule 0880-02(8)(c) filed and effective November 12, 1999. Amendment filed August 30, 1999; effective November 13, 1999. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.*

0880-02-.12 LICENSURE DISCIPLINE and CIVIL PENALTIES.

(1) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Medical Practice Act (T.C.A. §§63-6-101 et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:

(a) Private Censure - This is a written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(b) Public censure or reprimand - This is a written action issued to a licensee for one time and less severe violations. It is a formal disciplinary action.

(c) Probation - This is a formal disciplinary action which places a licensee on close scrutiny for a period of time.

1. This action may be combined with any other formal disciplinary action and include conditions which must be met before probation can be lifted and/or which restrict or condition the licensee's activities during the probationary period.

2. Once ordered, probation may not be lifted unless and until the licensee petitions and appears, pursuant to paragraph (2) of this rule, before the Board after the period of initial probation has run and all conditions placed on the probation have been met and the Board is satisfied that a further probationary period is not warranted.

(d) Licensure Suspension - This is a formal disciplinary action which suspends a licensee's right to practice medicine for a fixed period of time. It contemplates the reentry of the licensee into practice under the license previously issued.

1. Once ordered, a suspension may not be lifted unless and until the licensee petitions and appears, pursuant to paragraph (2) of this rule, before the Board after the period of initial suspension has run and:

(i) All conditions placed on the suspension have been met; and

(ii) The Board is satisfied that the licensee is competent to return to practice and that no further period of suspension is warranted.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Dennis Higdon, M.D.	X				
Michael John Baron, M.D.	X				
Neal Beckford, M.D.				X	
Deborah Christiansen, M.D.	X				
Clinton A. Musil, Jr., M.D.	X				
Patricia Eller				X	
Barbara Outhier	X				
Julianne Cole	X				
Melanie Blake, M.D.	X				
W. Reeves Johnson, Jr. MD	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Medical Examiners (board/commission/ other authority) on 07/19/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *05/25/16 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *07/19/16 (mm/dd/yy)*

Date: 1-18-17

Signature:

Name of Officer: Andrea Huddleston

Title of Officer: Chief Deputy General Counsel
Department of Health

Subscribed and sworn to before me on: 1-18-17

Notary Public Signature:

My commission expires on: MY COMMISSION EXPIRES APRIL 9, 2017

SUZANNE MECHALOWSKI
STATE OF TENNESSEE NOTARY PUBLIC
SUMNER COUNTY

Tennessee Board of Medical Examiners
Rules 0880-02-.08 and 0880-02-.11
General Rules and Regulations Governing the Practice of Medicine
Examination
Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory Rulings, Declaratory Orders And Screening Panels

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All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

1/25/2017
Date

Department of State Use Only

Filed with the Department of State on: 02/01/17

Effective on: 05/02/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Health
DIVISION:	Board of Alcohol and Drug Abuse Counselors
SUBJECT:	Rules Governing Licensure of Alcohol and Drug Abuse Counselors
STATUTORY AUTHORITY:	No federal or state law or regulation mandated the promulgated of the rule or established guidelines relevant thereto.
EFFECTIVE DATES:	May 7, 2017 through June 30, 2017
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rulemaking hearing rule removes the oral examination requirement everywhere it appears in Rule Chapter 1200-30-01.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Rulemaking Hearing
Removal of Oral Examination Requirement
October 7, 2016

Public Hearing Comments

Terry Kinnaman, Chairperson for the Board of Alcohol and Drug Abuse Counselors Rulemaking Task Force Committee, commented on the work that he and the Committee performed in drafting amendments to these rules during their work sessions in December 2015 and January 2016. Mr. Kinnaman suggested that the board adopt several non-substantive grammatical and typographical changes to rules that had been noticed for amendment at the October 2016 rulemaking hearing. Mr. Kinnaman further suggested that the Board adopt certain title protection amendments found in rules that were not noticed for amendment at the October 2016 rulemaking hearing.

The Board found Mr. Kinnaman's recommendations for grammatical and typographical changes to noticed rules as well-taken, and voted to adopt these changes. As for Mr. Kinnaman's recommendations regarding rules that had not been noticed, the Board decided to add the discussion of these rules to the agenda for the next Board meeting.

Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These rules do not overlap, duplicate, or conflict with other federal, state, and local government rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

These rules are established with clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

These rules do not establish any new reporting requirements.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These rules do not establish any new reporting requirements.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These rules do not establish any new reporting requirements.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These rules do not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rules do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Alcohol and Drug Abuse Counselors

Rulemaking hearing date: 10/07/2016

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   These rules affect licensees who are licensed through the Board of Licensed Alcohol and Drug Abuse Counselors as Level II Licensed Alcohol and Drug Abuse Counselors. These licensees will benefit from removal of the oral examination and the removal of fees associated with the oral examination. As of June 26, 2015, when the most recent rule amendments which created the tiered licensure system became effective, 373 Licensed Alcohol and Drug Abuse Counselors were upgraded/ grandfathered to a Level 2. An additional 8 licensees were licensed as a Level 2 after June 25, 2015 bringing the total count to 381.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   These rules should reduce the cost and time set aside for recordkeeping, reporting, or other administrative costs attributable to the oral examination requirement. Any reduction should be minimal.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   These rules should have a positive impact on businesses that assist in the payment of licensure fees for applicants to the Board. These rules should not have an impact on consumers.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and or objectives of these rule amendments.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: None.

   State: Many other health-related boards have removed certain testing requirements to ease the burden on licensees including the Hearing Instrument Specialists Committee who moved from written to computerized testing.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   These rule amendments do not provide for exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule amendments remove the oral examination requirement everywhere it appears in Rule Chapter 1200-30-01.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules affect licensees who are licensed through the Board of Licensed Alcohol and Drug Abuse Counselors as Level II Licensed Alcohol and Drug Abuse Counselors.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Caroline Tippens, Assistant General Counsel, Department of Health.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Caroline Tippens, Assistant General Counsel, Department of Health.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Caroline.Tippens@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-04-17
Rule ID(s): 6418
File Date: 2/6/17
Effective Date: 5/7/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Alcohol and Drug Abuse Counselors
Division:	
Contact Person:	Caroline Tippens, Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Caroline.Tippens@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1200-30-01	Rules Governing Licensure of Alcohol and Drug Abuse Counselors
Rule Number	**Rule Title**
1200-30-01-.01	Definitions
1200-30-01-.04	Qualifications for Licensure
1200-30-01-.06	Fees
1200-30-01-.07	Application Review, Approval, Denial, Interview
1200-30-01-.08	Examinations
1200-30-01-.12	Continuing Education

RULES
OF
BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS

CHAPTER 1200-30-01
RULES GOVERNING LICENSURE OF ALCOHOL AND DRUG ABUSE COUNSELORS

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1200-30-01-.01 DEFINITIONS.

(1) Advertising. Commercial communication which includes, but is not limited to, business solicitations with or without limiting qualifications, by a card, sign or device issued to a person; a sign or marking in or on any building; or, in any newspaper, magazine, directory or other printed material. Advertising also includes business solicitations communicated by an individual, radio, video or television broadcasting or any other means designed to secure public attention.

(2) Applicant. Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.

(3) Board. The Board of Alcohol and Drug Abuse Counselors established by T.C.A. §§ 68-24-604, et seq.

(4) Commissioner. The Commissioner of the Department of Health or his/her designee.

(5) Contact hour. Sixty (60) minutes in a required activity, including licensure experience and continuing education.

(6) Continuing education. Education beyond the basic initial licensure educational requirement which is related to the practice of alcohol and drug abuse counseling.

(7) Department. The Tennessee Department of Health, Division of Health Related Boards.

(8) Fee. Money, gifts, services or anything of value offered or received as compensation in return for rendering services; also, the required fee(s) pursuant to these rules.

(9) Good moral character. The quality of being well regarded in personal behavior and professional ethics.

(10) He/she, him/her. When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.

(11) Hold oneself out. To represent one's self to the public as having a particular status by means of stating on signs, mailboxes, address plates, letterhead, announcements, business cards or other instruments of professional identification.

(Rule 1200-30-01-.01, continued)

(12) License. The document issued to an applicant who successfully completes the licensure process.

(13) Licensed Alcohol and Drug Abuse Counselor or "licensee". Any person who has met the qualifications for licensed Alcohol and Drug Abuse Counselor and holds a current, unexpired, unsuspended or unrevoked license which has been lawfully issued by the Board.

(14) Licensure training supervision. On-going, direct clinical review for the purpose of training or teaching, by a qualified supervisor who supervises the performance of a person's interaction with a client and provides regular documented face-to-face consultation, guidance and instructions with respect to the clinical skills and competencies of the person supervised. Supervision may include, without being limited to, the review of case presentations, audio tapes, video tapes and direct observation.

~~(15) MAC. Master Addiction Counselor Exam.~~

(15) MAC. Master Addiction Counselor.

~~(16) NAADAC. The Association for Addiction Professionals.~~

(16) NAADAC. The National Association for Addiction Professionals.

(17) Qualified Clinical Supervisor. A person who meets the requirements for a qualified clinical supervisor, as defined in Rule 1200-30-01-.10(2) or (3).

~~(18) Regional Training Coordinator. One of seven regional institutional/agency providers of alcohol and drug abuse treatment services with whom the Department contracts to deliver training to other providers of alcohol and drug abuse treatment services. Each of these providers designates one of their professional staff members to be the individual Regional Training Coordinator. These Coordinators can be identified by contacting the Bureau of Alcohol and Drug Abuse Services Training Section.~~

(18)~~(19)~~ Retirement. Voluntary deactivation of the Board issued license.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-604, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; effective November 2, 2002. Amendments filed November 2, 2005; effective January 16, 2006. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.02 SCOPE OF PRACTICE.

(1) A Level I Licensed Alcohol and Drug Abuse Counselor may provide alcohol and drug abuse counseling services in an alcohol and drug abuse treatment program or a recovery support program, or any program providing alcohol and drug abuse services other than a private practice in which the Level I Licensed Alcohol and Drug Abuse Counselor is self-employed. Such services shall include the eight (8) domains listed in T.C.A. § 68-24-606.

(2) A Level II Licensed Alcohol and Drug Abuse Counselor may provide alcohol and drug abuse counseling services in an alcohol and drug abuse treatment program or a recovery support program, or any program providing alcohol and drug abuse services or in private practice. Such services shall include the eight (8) domains listed in T.C.A § 68-24-606. A Level II Licensed Alcohol and Drug Abuse Counselor may apply to the Board to become a Qualified Clinical Supervisor after meeting the Board's requirements for such credential.

(Rule 1200-30-01-.03, continued)

(1) Only persons who are licensed by the Board may represent themselves or practice as Licensed Alcohol and Drug Abuse Counselors or hold themselves out to the public as being licensed by means of using a title on signs, mailboxes, address plates, letterheads, announcements, telephone listings, business cards, or other instruments of professional identification.

(2) No person shall hold himself out to the public by a title or description of services incorporating the words licensed Alcohol and Drug Abuse Counselor unless he is licensed by the Board. Nothing in this rule shall prohibit a person from stating or using the educational degrees which he has obtained.

(3) The provisions of this chapter do not apply to a person who is preparing for the practice of alcohol and drug abuse counseling under a qualified supervisor in a training institution or facility or supervisory arrangement pursuant to these rules and such person is designated by such titles as "alcohol and drug abuse counseling intern", "alcohol and drug abuse counseling trainee" or other designations clearly indicating a training status.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.04 QUALIFICATIONS FOR LICENSURE.

(1) Licensure by examination.

(a) Prior to submitting an application to become a Level I Licensed Alcohol and Drug Abuse Counselor, each of the following minimum qualifications must be met:

1. The applicant must have attained twenty-one (21) years of age.

2. The applicant must be highly regarded as possessing good moral character and professional ethics, as specified in Rule 1200-30-01-.13.

3. The applicant must have a high school diploma or a high school equivalency diploma.

4. The applicant must have completed six thousand (6000) hours of experience where the applicant has performed all of the eight (8) domains, as listed in TCA § 68-24-606, while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board.

5. The applicant must have completed two hundred seventy (270) total hours of alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606. Six (6) hours of the 270 total hours of education shall pertain to alcohol and drug abuse counseling professional ethics.

6. The applicant must have completed a written philosophy of treatment, as defined in the licensure application.

7. The applicant must pass a jurisprudence examination approved by the Board.

8. The applicant must pass the National Certified Addiction Counselor (NCAC) Level I written examination that is administered by the National Certification

(Rule 1200-30-01-.04, continued)

Commission for Addiction Professionals (NCC AP) or the Master Addiction Counselor (MAC) written examination.

(b) Prior to submitting an application to become a Level II Licensed Alcohol and Drug Abuse Counselor, each of the following minimum qualifications must be met:

1. The applicant must have attained twenty-one (21) years of age.

2. The applicant must be highly regarded as possessing good moral character and professional ethics, as specified in Rule 1200-30-01-.13.

3. The applicant must:

~~(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and submit an accredited institution of higher learning, and submit an official transcript, have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606.~~

(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and submit an official transcript, have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606; OR

(ii) Have a master's or higher level degree in a behavioral health related field from an accredited institution of higher learning, and submit an official transcript, and have completed one (1) year of full time experience or two thousand (2000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606.

4. The applicant must have completed a written philosophy of treatment, as defined in the licensure application.

5. The applicant must pass a jurisprudence examination approved by the Board.

6. The applicant must pass the National Certified Addiction Counselor (NCAC) Level II written examination that is administered by the National Certification Commission for Addiction Professionals (NCC AP) or the Master Addiction Counselor (MAC) written examination.

~~7. The applicant must pass an oral examination demonstrating competency in the eight (8) domains listed in T.C.A. § 68-24-606.~~

(Rule 1200-30-01-.04, continued)

7 ~~8.~~ Each person currently licensed in good standing as a Licensed Alcohol and Drug Abuse Counselor before January 1, 2016 shall thereafter be licensed as a Level II Licensed Alcohol and Drug Abuse Counselor. The Board will not impose any additional fee or require any additional application for the issuance of a license pursuant to this section.

(c) Education. The education requirement must be completed prior to the date of application.

1. The Level I applicant must:

(i) Have a high school diploma or a high school equivalency diploma, a certified or notarized copy of which is to be included in the application.

(ii) Have completed two hundred seventy (270) total hours of alcohol and drug abuse counseling education and training within the eight (8) domains, as listed in TCA § 68-24-606 while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor. Six (6) hours of the 270 total hours of education shall pertain to alcohol and drug abuse counseling professional ethics. There is no time limit in which this education must have been obtained.

2. The Level II applicant must:

~~(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and submit an official transcript, have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have completed (270) total hours of alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606.~~

(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and submit an official transcript, have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have completed (270) total hours of alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606. There is no time limit in which the two hundred seventy (270) total hours of alcohol and drug abuse counseling education and training within the eight (8) domains must have been obtained; OR

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~~(ii) Have a master's or higher level degree in a behavioral health related field from an accredited institution of higher learning, and submit an official transcript, and have completed one (1) year of full time experience or two thousand (2000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have completed (270) total hours of alcohol and drug abuse~~

(Rule 1200-30-01-.04, continued)

~~counseling education and training within the eight domains, as listed in TCA § 68-24-606.~~

(ii) Have a master's or higher level degree in a behavioral health related field from an accredited institution of higher learning, and submit an official transcript, and have completed one (1) year of full time experience or two thousand (2000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board and have completed (270) total hours of alcohol and drug abuse counseling education and training within the eight domains, as listed in TCA § 68-24-606. There is no time limit in which the two hundred seventy (270) total hours of alcohol and drug abuse counseling education and training within the eight (8) domains must have been obtained.

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~~(iii) There is no time limit in which the (270) total hours of alcohol and drug abuse counseling education and training within the eight domains must have been obtained.~~

3. Applicants must furnish documentation of six (6) contact hours of education in ethics. This six (6) hour requirement may be part of the two hundred and seventy (270) contact hours of education required for licensure.

4. Applicants seeking to evaluate and treat persons who have been significantly affected by compulsive gambling disorder under Rule 1200-30-01-.02(2) shall have no less than sixty (60) additional hours of specialized education relating to compulsive gambling disorder. Such education shall be in the form of formal classroom hours, annual continuing education hours, or a combination of such hours.

(d) Experience.

1. The Level I applicant must have completed six thousand (6000) hours of experience during which the applicant has performed all of the eight (8) domains, as listed in TCA § 68-24-606, over a time period of a minimum of three (3) years, which may be paid or "volunteer" (unpaid), or a combination thereof, while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board.

2. The Level II applicant must:

~~(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board.~~

(i) Have a bachelor's degree in a behavioral health related field or higher level degree in a non-behavioral health related field from an accredited institution of higher learning, and have completed two (2) years of full time or four thousand (4000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified

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(Rule 1200-30-01-.04, continued)

Clinical Supervisor who meets the requirements of the rules of the Board; OR

(ii) Have a master's or higher level degree in a behavioral health related field from an accredited institution of higher learning, and have completed one (1) year of full time experience or two thousand (2000) hours of experience while providing alcohol and drug abuse counseling services under the direct supervision of a Qualified Clinical Supervisor who meets the requirements of the rules of the Board.

3. In order for "volunteer" (unpaid), clinically supervised counseling experience to be given credit, the "volunteer" experience must have been accrued in a facility or agency where the institution or agency head authorized the volunteer program, specifically appointed/designated in writing the person as a participant in that volunteer program, and where the services and duties were performed and supervised pursuant to written guidelines, i.e., a "job description".

4. Applicants seeking to evaluate and treat persons who have been significantly affected by compulsive gambling disorder under Rule 1200-30-01-.02(2) shall provide evidence that a portion of the clinically supervised counseling experience included contact with no less than ten (10) patients impacted by a compulsive gambling disorder.

(e) An applicant shall successfully complete the examinations as required in Rule 1200-30-01-.08. The applicant shall also provide to the Board an authorization for release of examination scores along with his/her application.

(2) Individuals seeking licensure by reciprocity as a Level I or Level II Licensed Alcohol and Drug Abuse Counselor must meet the following qualifications:

(a) The applicant must have attained twenty-one (21) years of age.

(b) The applicant must be highly regarded as possessing good moral character and professional ethics, as specified in rule 1200-30-01-.13.

(c) The applicant must hold a current license or equivalent from another state. The other state's standards for licensure must be comparable to or exceed the requirements for the level of licensure sought in Tennessee.

(d) An applicant shall successfully complete the jurisprudence examination as required in Rule 1200-30-01-.08.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, 68-24-606, and 68-24-608.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed June 15, 2004; effective August 29, 2004. Amendments filed August 5, 2011; effective November 3, 2011. Amendments filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.05 LICENSURE PROCESS.

(1) To become licensed as an Alcohol and Drug Abuse Counselor in Tennessee an applicant must comply with the following procedures and requirements:

(a) Licensure by examination.

(5) Application procedures shall be governed by Rule 1200-30-01-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-01-.15.

(6) The burden is on the applicant to prove by a preponderance of the evidence that his credentials were issued by a state whose standards for licensure are comparable to or exceed the requirements for licensure in Tennessee. This determination shall be made by the Board.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed July 3, 2007; effective September 16, 2007. Amendment filed November 26, 2008; effective February 9, 2009. Amendment filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.06 FEES.

(1) The fees authorized by statute are established by the Board as follows:

(a) Application Fee. A nonrefundable fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed. The application fee shall accompany a submitted application, as set out in these rules.

(b) Endorsement/Verification Fee. A nonrefundable fee for each certification of legal, documented, written verification of an individual's record.

~~(c) Examination Fee. A nonrefundable fee to be paid each time an individual requests to sit for an oral examination.~~

(c)~~(d)~~ Late Renewal Fee. A nonrefundable fee to be paid when an individual fails to timely renew a license.

(d)~~(e)~~ License Fee. A nonrefundable fee to be paid prior to the issuance of the license.

(e)~~(f)~~ Reinstatement Fee. A nonrefundable fee to be paid by all individuals each time a reinstatement application is filed.

(f)~~(g)~~ Renewal Fee. A nonrefundable fee to be paid biennially by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.

(g)~~(h)~~ Replacement License Fee. A nonrefundable fee to be paid when an individual requests a replacement for a lost or destroyed license.

(h)~~(i)~~ State Regulatory Fee. A nonrefundable fee to be paid by all licensees upon application and biennially upon renewal.

(2) Except for the renewal fees processed online via the Internet, all fees established by paragraph (3) of this rule must be submitted to the Board by certified or personal check or postal money order. Such checks or money orders are to be made payable to the Board of Alcohol and Drug Abuse Counselors.

(3) Fee Schedule.

Type	Amount

(Rule 1200-30-01-.06, continued)

(a)	Application Fee	$250.00
(b)	Endorsement/Verification Fee	$ 30.00
~~(c) Examination - Oral~~		~~$ 75.00~~
(c)~~(d)~~	Late Renewal Fee	$ 90.00
(d)~~(e)~~	License Fee	$ 50.00
(e)~~(f)~~	Reinstatement Fee	$100.00
(f)~~(g)~~	Renewal (Biennial) Fee	$325.00
(g)~~(h)~~	Replacement License Fee	$ 35.00
(h)~~(i)~~	State Regulatory Fee	$ 10.00

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; November 2, 2002. Amendment filed September 17, 2004; effective December 1, 2004. Amendment filed November 26, 2008; effective February 9, 2009.*

1200-30-01-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEW.

(1) Initial review of each application to determine whether or not the application file is complete may be delegated to the Board's administrator, provided that final approval of the application is ratified by the Board. In no event may an application be finally approved or denied without ratification by the Board.

(2) If an application is incomplete when received by the Board or the reviewing member determines additional information is required from an applicant before an initial determination can be made, the Board shall notify the applicant of the information required. The applicant shall cause the requested information to be received by the Board on or before the sixtieth (60th) day after receipt of the notification.

(a) Such notification shall be sent by certified mail return receipt requested.

(b) If the requested information is not timely received, the application shall be closed and the applicant notified. No further action shall take place until a new application is received pursuant to the rules governing the licensure process, including another payment of all fees.

(3) If a completed application is initially denied by the reviewing Board member, the applicant shall be informed of the initial decision and that a determination shall be made by the Board at its next meeting. If the Board confirms the initial denial, the following shall occur:

(a) A notification of the denial shall be sent to the applicant by certified mail return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, examination failure or other matters rendering the application insufficient for licensure and such notification shall contain all the specific statutory or rule authorities for the denial.

(Rule 1200-30-01-.07, continued)

(b) The notification, when appropriate, shall contain a statement which sets forth the applicant's right to request a hearing pursuant to the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial and the procedure necessary to perfect the appeal.

1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.

2. An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if, after review and attempted resolution by the Board, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal.

3. Any appeal request must be made in writing to the Board within thirty (30) days of the receipt of the notice of denial.

(4) After review of the application, an applicant may be asked to appear before the Board for an interview.

(5) The initial determination procedures of this rule will not apply if the full Board reviews and makes final determination on the application during its meeting.

(6) The Board may delay a decision on eligibility to take the written examination for any applicant for whom additional clarifying information is needed. The Board shall make this request for additional information in writing within sixty (60) days from the date of the official review of the application.

(7) If the Board finds it has erred in the issuance of a license, it will give written notice by certified mail of the intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from date of receipt of the notification. If the applicant does not concur with the stated reason(s) and the intent to revoke the license, the applicant shall have the right to a contested case hearing as provided by these rules.

(8) Abandonment of Application.

(a) An application shall be deemed abandoned and the file closed if:

1. The application has not been completed by the applicant within one hundred and twenty (120) days after it was initially reviewed and received by the Board; or

~~2. The applicant fails to sit or pass the written and oral sections of the examination within twelve (12) months after being notified of eligibility.~~

2. The applicant fails to pass the written examination within twelve (12) months after being notified of eligibility.

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(b) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

(9) Request to re-open application - When an application has been closed pursuant to Paragraph (8) of this rule, the Board may consider re-opening the application upon receipt of a written request and appropriate notarized documentation from the applicant stating the extenuating circumstances and/or the medical condition that caused the Board's deadline to not be met.

(Rule 1200-30-01-.07, continued)

If applicable, a letter must accompany such request from the applicant's personal physician attesting to the medical condition that caused the Board's deadline to not be met.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 68-24-605.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed November 26, 2008; effective February 9, 2009.*

1200-30-01-.08 EXAMINATIONS. ~~In addition to having filed an application, an individual seeking licensure by examination as a Level I Licensed Alcohol and Drug Abuse Counselor shall be required to successfully complete the Board's written and jurisprudence examinations, and an individual seeking licensure by examination as a Level II Licensed Alcohol and Drug Abuse Counselor shall be required to successfully complete the Board's oral, written, and jurisprudence examinations.~~

In addition to having filed an application, an individual seeking licensure by examination as a Level I Licensed Alcohol and Drug Abuse Counselor shall be required to successfully complete the Board's written and jurisprudence examinations. An individual seeking licensure by examination as a Level II Licensed Alcohol and Drug Abuse Counselor must meet all educational requirements and shall be required to successfully complete the Board's written and jurisprudence examinations.

(1) Written examination.

~~(a) The written examination adopted by the Board is the examination developed by NAADAC/MAC and administered by its designated testing agency.~~

(a) The written examination adopted by the Board is the examination developed by NAADAC and administered by its designated testing agency.

(b) The Board shall include with its application materials information regarding the written examination.

~~(c) Passing scores on the examination are determined by NAADAC/MAC and are adopted by the Board as constituting successful completion of the written examination.~~

(c) Passing scores on the examination are determined by NAADAC and are adopted by the Board as constituting successful completion of the written examination.

~~(d) NAADAC/MAC will notify both the Board and the candidate of his or her passing or failing status.~~

(d) NAADAC will notify both the Board and the candidate of his or her passing or failing status.

~~(2) Oral examination.~~

~~(a) An oral examination is required for each applicant other than those applying by reciprocity. The applicant shall be eligible to sit for the oral examination only after obtaining a passing score on the written examination.~~

~~(b) The oral examination shall be administered by a panel consisting of~~

~~1. any three (3) members of the Board; or~~

~~2. a panel of three (3) examiners selected by the Board who~~

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(Rule 1200-30-01-.08, continued)

~~(i) possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in Tennessee that have not been disciplined, restricted, or encumbered for the past five (5) years; and~~

~~(ii) if licensed or certified to practice alcohol and drug abuse counseling in other states, possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in such other states that have not been disciplined, restricted, or encumbered for the past five (5) years; and~~

~~(iii) if licensed or certified to practice any other health-related profession in Tennessee or in any other state, possess active, unrestricted, and unencumbered licenses to practice such health-related professions that have not been disciplined, restricted, or encumbered for the past five (5) years.~~

~~(c) An oral examination is scheduled for each applicant as soon as reasonable after receipt of a passing score from the written examination. Notification of the test date and site of the oral examination will be provided to an applicant in writing from the Board at least thirty (30) days prior to the oral examination date.~~

~~(d) The oral examination of an applicant shall cover:~~

~~1. The applicant's knowledge of the content and interpretation of these rules and the NAADAC Code of Ethics.~~

~~2. The applicant's knowledge and skill of the eight (8) domains as stated in Rule 1200-30-01-.02(7) and described in the Board's licensure application.~~

~~3. Other practice-related areas, including but not limited to past work history, professional experiences and hypothetical situations.~~

~~(e) The oral examination panel shall make a recommendation of pass or fail and the Board shall review such recommendation before making its decision. At its discretion, the Board may accept the examination panel's recommendation, reverse the recommendation, or request another examination by a new panel. The written report of the oral examination panel, including the panel recommendation, becomes a part of the applicant's licensure file. It is required that all oral examinations be audiotaped. At its discretion, the Board may review the entire contents of the audiotaped record before making its decision. The audiotaped record of every failed oral examination will be maintained at the Board office until the applicant has successfully passed the oral examination.~~

~~(f) The Board will notify the applicant of his/her passing or failing status within ten (10) working days of the Board's ratification of the oral examination results.~~

(2)~~(3)~~ Jurisprudence Examination. All applicants for licensure must successfully complete the Board's jurisprudence examination as a prerequisite to licensure.

(a) The Board shall include a jurisprudence examination with all applications for licensure that are mailed from the Board's administrative office, or the applicant may obtain the jurisprudence examination from the Board's Internet web page that can be accessed at www.Tennessee.gov.

(Rule 1200-30-01-.08, continued)

(b) The applicant shall include a completed jurisprudence examination when his/her completed application for licensure is returned to the Board's administrative office.

(c) There is no fee for the jurisprudence examination.

(d) The scope and content of the examination shall be determined by the Board but limited to statutes and regulations governing the practice of alcohol and drug abuse counselors (T.C.A. §§ 68-24-604, et seq., and Chapter 1200-30-01 of the rules of the Tennessee Department of Health) and the NAADAC Code of Ethics. Copies of the applicable statutes, regulations, and the NAADAC Code of Ethics are available upon request from the Board's administrative office.

(e) The format of the examination shall be "open-book."

(f) Correctly answering ninety percent (90%) of the examination questions shall constitute successful completion of the jurisprudence exam.

~~(4) Re-examination.~~

~~(a) Written Examination. Applicants who fail to pass the written examination may apply to the NAADAC or the MAC for re-examination. Hand-scoring and/or appeal questions are to be directed to the NAADAC or MAC.~~

~~(b) Oral examination.~~

~~1. Applicants who fail to pass the oral examination may apply to the Board for re-examination.~~

~~2. It is not required that an applicant repeat the written examination in order to repeat the oral examination.~~

~~3. Should the applicant fail a second oral examination, the Board shall deny licensure pursuant to rule 1200-30-01.07. In such event, the applicant must then retake the written examination if the applicant reapplies.~~

~~(c) Jurisprudence Examination~~

~~1. Applicants who fail to successfully complete the jurisprudence examination must continue to retake the examination until it has been successfully completed before the application will be deemed complete and presented to the Board for review.~~

~~2. It is not required that an applicant repeat the written or oral examinations in order to repeat the jurisprudence examination.~~

(3) Re-examination.

(a) Written Examination. Applicants who fail to pass the written examination may apply to NAADAC for re-examination. Hand-scoring and/or appeal questions are to be directed to NAADAC.

(b) Jurisprudence Examination

1. Applicants who fail to successfully complete the jurisprudence examination must continue to retake the examination until it has been successfully completed

(Rule 1200-30-01-.08, continued)

before the application will be deemed complete and presented to the Board for review.

2. It is not required that an applicant repeat the written examination in order to repeat the jurisprudence examination.

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(4)~~(5)~~ If an applicant neglects, fails, or refuses to take any of the required examinations or fails to successfully complete the examinations within twelve (12) months after being approved, the application will be deemed abandoned. Such applicant may thereafter make a new application accompanied by the required fee. The applicant shall meet the requirements in effect at the time of the new application.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, 68-24-606, and 68-24-608.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; November 2, 2002. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed November 26, 2008; effective February 9, 2009. Amendments filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.09 RENEWAL OF LICENSE.

(1) Renewal application.

(a) The due date for license renewal is the expiration date indicated on the licensee's renewal certificate.

(b) Methods of Renewal

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

(c) To be eligible for renewal, an individual must submit the following to the Board on or before the expiration date:

1. A completed and signed renewal application form; and

2. The biennial renewal fees as provided in these rules.

(d) Renewals may be issued administratively or by the Board.

(e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.

(2) Reinstatement of Expired License

(Rule 1200-3-01-.11, continued)

(2) Any licensee whose license has been retired may reactivate the license by:

(a) Paying the licensure renewal fee.

(b) If requested, appearing before the Board for an interview regarding continued competence in the event of licensure retirement in excess of two (2) years.

(c) Successfully completing the written examination for licensure if licensure retirement was in excess of five (5) years and the Board determines that re-examination is necessary to protect the public.

(d) Complying with the continuing education requirements.

(3) Application procedures shall be governed by Rule 1200-30-01-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-01-.15.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 13, 2000; effective February 26, 2001.*

1200-30-01-.12 CONTINUING EDUCATION. Level I Licensed Alcohol and Drug Abuse Counselors, and Level II Licensed Alcohol and Drug Abuse Counselors must complete fifteen (15) contact hours of alcohol and drug abuse continuing education during each calendar year (January 1 to December 31). Nine (9) hours must be face to face and six (6) hours may be multi-media with at least three (3) of the fifteen (15) hours relating to ethics. A Qualified Clinical Supervisor (QCS) must complete a minimum of five (5) additional contact hours of training annually, in addition to the normal fifteen (15) contact hours necessary to maintain licensure. Such additional contact hours must be specific to Alcohol and Drug Clinical Supervision. Three (3) hours of the five (5) additional total hours of continuing education must be specific to clinical supervision ethics.

(1) Continuing education for new licensees - For new licensees, submitting proof of successful completion of all education and training requirements required for licensure in Tennessee, pursuant to subparagraphs 1200-30-01-.04 (1) (c) and 1200-30-01-.05 (1) (a), shall be considered proof of sufficient preparatory education to constitute continuing education credit for the calendar year in which such education and training requirements were completed.

(2) The following organizations and entities are authorized to present, sponsor, or approve continuing education courses, events, and activities related to the practice of alcohol and drug abuse counseling:

(a) Nationally or regionally accredited institutions of higher education

~~(b) NAADAC (The Association for Addiction Professionals)~~

(b) NAADAC (The National Association for Addiction Professionals)

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(c) TAADAC (The Tennessee Association of Alcohol and Drug Abuse Counselors)

(d) Tennessee Department of Health

(e) TAADAS (The Tennessee Association of Alcohol, Drug and Other Addiction Services)

(f) TAMHO (The Tennessee Association of Mental Health Organizations)

(Rule 1200-30-01-.12, continued)

(g) Tennessee Department of Mental Health.

(3) Continuing education program approval process for providers of education.

(a) All providers of continuing education not authorized by paragraph (2) must request and receive approval of their program content by the Board to fulfill the continuing education requirements set forth in this rule. Providers who intend to offer more than one (1) presentation of the same course, event, or activity during one (1) calendar year may combine in a single application the information required by subparagraph (3) (b) for the multiple presentations.

(b) Application for approval shall contain the topic, credentials of the speaker or presenter, a brief description of program content or content objectives, the date and length in minutes of each presentation, the place of instruction and the sponsoring institution or organization. Application for approval of Multi-Media courses, as provided in subparagraph (5) (c), shall submit this information on an annual basis as applicable, and shall also submit a brief description of the course format.

(c) All applications for approval must be submitted to the Board at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the educational offering. The Board shall review each application and shall rule on whether the offering(s) in whole or in part shall be accepted as valid for the purposes of the continuing education requirements of this rule. The decision of the Board shall be final in all such matters.

(4) Documentation.

(a) On a Board provided form, each licensee must check a box and/or enter his signature which indicates attendance and completion of all the required contact hours of continuing education and that such hours were obtained.

(b) Each licensee shall retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the renewal period in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.

(c) Documentation of continuing education includes:

1. A certificate verifying the individual's attendance at the continuing education program.

2. An original letter on official institution letterhead from the instructor of the graduate level course verifying that the course was completed and listing the number of credit hours of attendance completed by the individual.

3. An official transcript verifying credit hours earned. One semester academic credit hour is equivalent to fifteen (15) contact hours. One quarter academic credit hour is equivalent to twelve (12) contact hours.

4. A certificate or letter verifying successfully passing a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in subparagraph (5) (c). The certificate or letter must include the contact hours awarded (continuing education units must be converted to

(Rule 1200-30-01-.12, continued)

contact hours), date completed, program title, licensee's name, and license number.

(5) It is the licensee's responsibility, using his professional judgment, to determine whether or not a particular educational/training experience is applicable and appropriate to his professional development and meets the standards specified in these rules.

(a) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Board may request a written description of the training and how it applies to the individual's professional practice. If the Board determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next year.

(b) Continuing education credit or contact hours of training will not be allowed for the following:

1. Regular work activities, administrative staff meetings, case staffing/reporting, etc.;

2. Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations or banquet speeches;

3. Independent, unstructured or self-structured learning; or

4. Training specifically related to policies and procedures of an agency.

(c) Multi-Media

1. Notwithstanding the provisions of part (5) (b) 3., continuing education courses may be presented in the traditional lecture and classroom formats or, in accordance with paragraphs (2) and (3) and with successful completion of a written post experience examination to evaluate material retention, courses may be presented in Multi-Media formats. Multi-Media courses may include courses utilizing:

(i) The Internet

(ii) Closed circuit television

(iii) Satellite broadcasts

(iv) Correspondence courses

(v) Videotapes

(vi) CD-ROM

(vii) DVD

(viii) Teleconferencing

(ix) Videoconferencing

(Rule 1200-30-01-.12, continued)

(x) Distance learning

2. A maximum of six (6) contact hours may be granted for multi-media courses during each calendar year.

(6) Continuing education for reactivation of license.

(a) Reactivation of retired license.

1. Any individual requesting reactivation of a license which has been retired one or more years shall so indicate on a Board-provided form which indicates the attendance and completion of fifteen (15) continuing education hours. The continuing education hours must have been begun and successfully completed within twelve (12) months immediately preceding the date of the requested reinstatement.

2. The Board, upon receipt of a written request and explanation, may waive or condition any or all of the contact hours requirement for reactivation of a retired license in emergency situations.

(b) Reactivation of revoked license – No person whose license has been revoked for failure to comply with the continuing education contact hours requirement may be reinstated without complying with the requirement. The continuing education hours will accumulate at the same rate and are required the same as those for licenses which are active. A license which has been revoked for noncompliance with the continuing education requirement shall also be subject to the late renewal fee.

(c) Reactivation of expired license – No person whose license has expired as a result of failure to comply with the renewal requirements of rule 1200-30-01-.09 may be reinstated without complying with the requirements of this rule. The continuing education hours will accumulate at the same rate and are required the same as those for licenses which are active. A license which has expired as a result of failure to comply with the renewal requirements of rule 1200-30-01-.09 shall also be subject to the late renewal fee.

(d) Any licensee requesting reactivation of either a retired or revoked license shall indicate on a Board provided form that he has complied with the continuing education requirement pursuant to this rule and that such continuing education hours were begun and successfully completed within twelve (12) months immediately preceding the date of requested reinstatement.

(e) Continuing education hours obtained as a prerequisite for reactivating either a retired or revoked license may not be counted toward the current licensure renewal year requirement.

(7) Waiver of continuing education.

(a) The Board may grant a waiver of attendance and completion of the required hours of continuing education, if it can be shown that the failure to comply was not attributable to the individual or was beyond the physical capabilities of the individual, e.g., disability, residence abroad, military service or other good cause. A request for waiver must be received by the Board on or before the license expiration date.

(b) Waiver requests will be considered only on an individual basis and may be made by submitting the following items to the Board:

(Rule 1200-30-01-.12, continued)

1. A written request for a waiver which specifies what requirement is sought to be waived and an explanation of the reason(s) for the request, dated and signed by the licensee.

2. Any documentation which supports the reason(s) for the waiver requested or which may be subsequently requested.

(c) An approved waiver is effective only for the calendar year for which the waiver of the requirement is sought, unless otherwise specified in writing by the Board.

(8) Violations.

(a) Any licensee who falsely attests to attendance and completion of the hours of continuing education may be subject to disciplinary action pursuant to the provisions of these rules.

(b) Any licensee who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to the provisions of these rules.

(c) Continuing education hours obtained as a result of compliance with the terms of enforcement action taken by the Board shall not be counted toward the continuing education hours required to be obtained in any renewal cycle.

(d) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(e) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

(f) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (d) above may be subject to disciplinary action.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606.* ***Administrative History:*** *Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed September 13, 2001; effective November 27, 2001. Amendment filed August 19, 2002; November 2, 2002. Amendments filed October 18, 2004; effective January 1, 2005. Amendment filed November 2, 2005; effective January 16, 2006. Amendment filed May 18, 2007; effective August 1, 2007. Amendment filed July 3, 2007; effective September 16, 2007. Amendments filed August 5, 2011; effective November 3, 2011. Amendments filed March 27, 2015; effective June 25, 2015.*

1200-30-01-.13 PROFESSIONAL ETHICS.

(1) A licensed Alcohol and Drug Abuse Counselor and anyone under his supervision shall conduct his professional practice in conformity with the NAADAC Code of Ethics and these rules.

(2) Each applicant or license holder is responsible for being familiar with and following these standards.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Hilde L. Phipps	X				
Susan D. Cunningham	X				
Karen Dennis	X				
Major McNeil	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Alcohol and Drug Abuse Counselors on 10/07/2016, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *05/23/16*

Rulemaking Hearing(s) Conducted on: *10/07/16*

LOYCE JEFFERY PAYNE
STATE OF TENNESSEE NOTARY PUBLIC
MARSHALL COUNTY

Date: October 31, 2016

Signature: Caroline R. Tippens

Name of Officer: Caroline Tippens

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 10/31/16

Notary Public Signature: Loyce Jeffery Payne

My commission expires on: 6/29/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

1/26/2017
Date

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SECRETARY OF STATE
PUBLIC ACTIONS

Department of State Use Only

Filed with the Department of State on: 2/6/17

Effective on: 5/7/17

Tre Hargett
Secretary of State