G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Commerce and Insurance
DIVISION:	Fire Prevention
SUBJECT:	Electrical Inspection Fees
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 68-102-143
EFFECTIVE DATES:	December 30, 2013 through June 28, 2014
FISCAL IMPACT:	Minimal.
STAFF RULE ABSTRACT:	Public Chapter 150 of 2013 removed the formerly established inspection fees of electrical services from T.C.A. and instead authorizes the commissioner to set the fees. The rule sets the inspection fees at the same amounts as those that appeared in T.C.A. prior to January 1, 2014, when Public Chapter 150 took effect.

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)

This rule will not impact local governments.

Department of State
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For Department of State Use Only

Sequence Number: 12-34-13
Rule ID(s): 5652
File Date (effective date): 12/30/13
End Effective Date: 6/28/14

Emergency Rule Filing Form

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

Agency/Board/Commission:	Tennessee Department of Commerce and Insurance
Division:	Division of Fire Prevention
Contact Person:	Joseph Underwood, Chief Counsel for Fire Prevention
Address:	500 James Robertson Parkway, Davy Crockett Tower, 8th Floor
Zip:	37243
Phone:	615-741-3899
Email:	Joseph.Underwood@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. § 68-102-143(a)(3), the Commissioner of Commerce and Insurance "shall provide a program to ensure that electrical inspection services are available throughout the state on a timely basis . . .". Furthermore, "[a]n inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector." Tenn. Code Ann. § 68-102-143(a)(3)(A). T.C.A. § 68-102-143(b)(1) states that: "[e]ach inspector, acting through the inspector's professional corporation, is authorized to charge for and receive a fee for each inspection."

This emergency rule is required due to Public Chapter 150 of the 2013 Acts (codified in T.C.A. §§ 68-102-143 and 68-102-147) enacted by the General Assembly and signed by the Governor on April 12, 2013. Public Chapter 150 removes the formerly established inspection fees of electrical services in T.C.A. § 68-102-143(b)(2), and subsequently provides that "[t]he commissioner has the authority to set maximum inspection fees for services and to facilitate the administration and effective enforcement of this section."

The proposed amendment to Tenn. Comp. R. & Regs. 0780-02-01 will add new rule 0780-02-01-.21 [Inspection Fees], which establishes the inspection fees of electrical services at the same monetary amounts as provided previously in T.C.A. § 68-102-143(b)(2) prior to the enactment of Public Chapter 150 (2013).

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/RuleTitle per row)

Chapter Number	**Chapter Title**
0780-02-01	Electrical Installations
Rule Number	**Rule Title**
0780-02-01-.21	Inspection Fees

(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://state.tn.us/sos/rules/1360/1360.htm)

Amendment
Chapter 0780-02-01

Chapter 0780-02-01 is amended by adding new Rule 0780-02-01-.21 Inspection Fees which shall read as follows:

0780-02-01-.21 Inspection Fees

The inspection fee for each inspection for services shall not exceed the following:

	Fee
0-200 ampere capacity	$27.00
201-400 ampere capacity	$40.00
401-600 ampere capacity	$50.00
601-1000 ampere capacity	$90.00
1,001 ampere capacity and above	fee is negotiable; however, any such fee shall be subject to review and approval by the commissioner, or designee
Rough-in inspection	$27.00
Re-inspection (based on rejection of a 0-1,000 ampere capacity)	$27.00
Inspection of a dwelling unit's heating and/or cooling system (e.g. HVAC)	$27.00
Service Release Inspection	based on ampere capacity of service

Authority: T.C.A. §§ 68-102-113 and 68-102-143(b)(2).

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

Date: 11/26/13

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

DENISE M. LEWIS
STATE OF TENNESSEE NOTARY PUBLIC
WILSON COUNTY, TENN.
My Commission Expires

Subscribed and sworn to before me on: 11/26/13

Notary Public Signature: Denise M Lewis

My commission expires on: 2/15/2016

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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

12-23-13
Date

Department of State Use Only

Filed with the Department of State on: 12/30/13

Effective for: 180 *days

Effective through: 6/28/14

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

Tre Hargett

Tre Hargett
Secretary of State

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2013 DEC 30 PM 1:35
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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	CoverKids Program
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 71-3-1104
EFFECTIVE DATES:	December 20, 2013 through June 18, 2014
FISCAL IMPACT:	Decrease state annual expenditures by $9,450,000.
STAFF RULE ABSTRACT:	This rule replaces a previous emergency rule on the same subject. This rule permits reduction in expenditures for the CoverKids program by changing from a commercial network to the TennCare Select Medicaid network effective October 1, 2013.

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 rule is not anticipated to have an impact on local governments.

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For Department of State Use Only

Sequence Number: 12-27-13
Rule ID(s): 5640
File Date (effective date): 12/20-13
End Effective Date: 6/18/14

Emergency Rule Filing Form

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

Agency/Board/Commission:	Tennessee Department of finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	George.Woods@tn.gov

Rule Type:
X Emergency Rule

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

Statement of Necessity:

The agency acknowledges that this Emergency Rule is substantially the same as the Emergency Rule filed by the Department of Finance and Administration, Bureau of TennCare, on September 26, 2013, as Sequence Number 09-38-13, with an effective end date of March 25, 2014. That rule was filed for the purpose of implementing the Appropriations Act, Public Chapter 453, effective July 1, 2013, requiring that the Bureau of TennCare reduce expenditures for CoverKids. The reduction was to be accomplished by transitioning the persons enrolled in the CoverKids program from a commercial network of providers to the TennCare Select Medicaid network, effective October 1, 2013. The transition was not to result in any loss of covered services.

Even though the Emergency Rule now in effect has an effective end date of March 25, 2014, Paragraph (1) of the Rule states that "this rule shall be in effect from October 1, 2013, to January 1, 2014." The agency has never before inserted an end date in the narrative of an Emergency Rule, but the agency found it necessary in this case because the agency anticipated that another Emergency Rule would be needed in order for the agency to be compliant with eligibility changes mandated by the Affordable Care Act (ACA) for both TennCare and CoverKids and scheduled to take effect on January 1, 2014. At the time of the September 26th filing, TennCare could not have reasonably foreseen that the Centers for Medicare and Medicaid Services ("CMS") would adopt delays in implementing ACA provisions impacting the enrollment process for TennCare- and CoverKids-related programs. However, CMS has, in fact, adopted such delays, and these delays prohibit the agency from filing the aforementioned rules it anticipated filing with an effective date of January 1, 2014. These delays, therefore, necessitate that the language of the Emergency Rule be amended to delete the January 1, 2014, end date contained in Paragraph (1) and permit the new amended Emergency Rule to remain in effect for the complete statutorily permitted 180 days, effective upon the date of filing this amendment as recorded by the Department of State.

T.C.A. § 4-5-208 permits an agency to adopt an emergency rule when it is required by enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures in promulgation of permanent rules.

Based upon the above information, I have made the finding that the emergency adoption of this rule is required in order to achieve implementation by October 1, 2013.

0620-05-01-.06 Providers.

(1) This rule shall be in effect from October 1, 2013~~, to January 1, 2014~~.

(2) For purposes of this rule, the following definitions shall apply:

(a) Covered services. Services listed in Rule 0620-05-01-.03 and authorized by the Plan Administrator ("PA").

(b) CoverKids network. A group of health care providers that have entered into contracts with the PA to furnish covered services to CoverKids enrollees. These contracts may take the form of general contracts or single case agreements.

(c) CoverKids provider. An appropriately licensed institution, facility, agency, person, corporation, partnership, or association that delivers health care services and that participates in the PA's network.

(d) Emergency services, including emergency mental health and substance abuse emergency treatment services. Services to treat the sudden and unexpected onset of a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to potentially result in:

1. Placing the person's (or with respect to a pregnant woman, her unborn child's) health in serious jeopardy; or

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part.

(e) HealthyTNBabies. The program that provides coverage of maternity care for pregnant CoverKids enrollees, including the unborn children of pregnant women with no source of coverage who meet the CoverKids eligibility requirements.

(f) Non-CoverKids provider. A health care provider of non-emergency services that does not participate in the PA's network.

(3) Payment in full.

(a) All CoverKids providers, as defined in this rule, must accept as payment in full for provision of covered services to a CoverKids enrollee, the amount paid by the PA, plus any copayment required by the CoverKids program to be paid by the individual.

(b) Any non-CoverKids providers who furnish CoverKids covered services by authorization from the PA must accept as payment in full for provision of covered services to CoverKids enrollees the amounts paid by the PA plus any copayment required by the CoverKids program to be paid by the individual.

(c) CoverKids will not pay for non-emergency services furnished by non-CoverKids providers unless these services are authorized by the PA. Any non-CoverKids provider who furnishes CoverKids Program covered non-emergency services to a CoverKids enrollee without authorization from the PA does so at his own risk. He may not bill the patient for such services except as provided for in Paragraph (5).

(4) Non-CoverKids Providers

(a) In situations where the PA authorizes a service to be rendered by a non-CoverKids provider, payment to the provider shall be no less than 80% of the lowest rate paid by the PA to equivalent

participating CoverKids network providers for the same service, consistent with the methodology contained in Rule 1200-13-13-.08(2)(a).

(b) Covered medically necessary outpatient emergency services, when provided to CoverKids enrollees by non-CoverKids network hospitals, shall be reimbursed at 74% of the 2006 Medicare rates for the services, consistent with the methodology contained in Rule 1200-13-13-.08(2)(b). Emergency care to enrollees shall not require preauthorization.

(c) Covered medically necessary inpatient hospital admissions required as the result of emergency outpatient services, when provided to CoverKids enrollees by non-CoverKids network hospitals, shall be reimbursed at 57% of the 2008 Medicare DRG rates (excluding Medical Education and Disproportionate Share components) determined according to 42 CFR § 412 for the services, consistent with the methodology contained in Rule 1200-13-13-.08(2)(c). Such an inpatient stay will continue until no longer medically necessary or until the patient can be safely transported to a network hospital, whichever comes first.

(5) Providers may seek payment from a CoverKids enrollee only under the following circumstances. These circumstances include situations where the enrollee may choose to seek a specific covered service from a non-CoverKids provider.

(a) If the services are not covered by the CoverKids program and, prior to providing the services, the provider informed the enrollee that the services were not covered.

(b) If the services are not covered because they are in excess of an enrollee's benefit limit and one of the following circumstances applies:

1. The provider has information in her own records to support the fact that the enrollee has reached his benefit limit for the particular service being requested and, prior to providing the service, informs the enrollee that the service is not covered and will not be paid for by CoverKids. This information may include:

(i) A previous written denial of a claim on the basis that the service was in excess of the enrollee's benefit limit for a service within the same benefit category as the service being requested, if the time period applicable to the benefit limit is still in effect; or

(ii) That the provider had personally provided services to the enrollee in excess of his benefit limit within the same benefit category as the service being requested, if the time period applicable to that benefit period is still in effect; or

(iii) The enrollee's PA has provided confirmation to the provider that the enrollee has reached his benefit limit for the applicable service.

2. The provider submits a claim for service to the PA and receives a written denial of that claim on the basis that the service exceeds the enrollee's benefit limit. After informing the enrollee and within the remainder of the period applicable to that benefit limit, the provider may bill the enrollee for services within that same exhausted benefit category without having to submit claims for those subsequent services for repeated PA denial. If the provider informed the enrollee prior to providing the service for which the claim was denied that the service would exceed the enrollee's benefit limit and would not be paid for by CoverKids, the provider may bill the enrollee for that service.

3. The provider had previously taken the steps in parts 1. or 2. above and determined that the enrollee had reached his benefit limit for the particular service being requested, if the time period applicable to the benefit limit is still in effect, and informs the enrollee, prior to providing the service, that the service is not covered and will not be paid for by CoverKids.

(c) If the services are covered only with prior authorization and prior authorization has been requested but denied, or is requested and a specified lesser level of care is approved, and the

provider has given prior notice to the enrollee that the services are not covered, the enrollee may elect to receive those services for which prior authorization has been denied or which exceed the authorized level of care and be billed by the provider for such services.

(6) Providers may not seek payment from a CoverKids enrollee under the following conditions:

(a) The provider knew or should have known about the patient's CoverKids enrollment prior to providing services.

(b) The claim submitted to the PA for payment was denied due to provider billing error or a CoverKids claim processing error.

(c) The provider accepted CoverKids assignment on a claim and it is determined that another payer paid an amount equal to or greater than the CoverKids allowable amount.

(d) The provider failed to comply with CoverKids policies and procedures or provided a service which lacks medical necessity or justification.

(e) The provider failed to submit or resubmit claims for payment within the time periods required by the PA or CoverKids.

(f) The provider failed to inform the enrollee prior to providing a service not covered by CoverKids that the service was not covered and the enrollee may be responsible for the cost of the service. Services which are non-covered by virtue of exceeding limitations are exempt from this requirement if the provider has complied with paragraph (5) above.

(g) The enrollee failed to keep a scheduled appointment(s).

(7) Pharmacy providers may not waive pharmacy copayments for CoverKids enrollees as a means of attracting business to their establishments. This does not prohibit a pharmacy from exercising professional judgment in cases where an enrollee may have a temporary or acute need for a prescribed drug, but is unable, at that moment, to pay the required copayment.

Statutory Authority: T.C.A. §§ 4-5-208, 71-3-1104, 71-3-1106 and 71-3-1110.

GW10113338

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

Date: 12/9/2013

Signature: [signature]

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 12/9/13

Notary Public Signature: Cheryl D Kline

My commission expires on: AUG 23 2016

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.

[signature]
Robert E. Cooper, Jr.
Attorney General and Reporter

12-19-13
Date

Department of State Use Only

Filed with the Department of State on: 12/20/13

Effective for: 180 *days

Effective through: 6/18/14

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

[signature]
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Wildlife Resources Agency
DIVISION:	Boating and Law Enforcement
SUBJECT:	Boat Exclusion Zone on Cumberland River
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 69-9-209
EFFECTIVE DATES:	March 23, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	This rule replaces an emergency rule that prohibits boats from entering the discharge channel of the TVA Fossil Plant near Cumberland River Mile 243 because of construction activities at the plant. This boat exclusion zone includes the area where TVA is performing EPA-mandated construction. The agency reports that this zone protects recreational boaters from staged equipment and protect workers who will be in the area performing the construction.

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.

RULE: 1660-02-07-.04 Rules and Regulations Governing Operations of Vessels

New	____
Amendment	__X__
Repeal	____

[✓] There were no public comments to the above-described rule.

[ ] Attached hereto are the responses to public comments.

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, and/or directly benefit from the proposed rule;

The Commission does not anticipate significant impact to small businesses in Tennessee. The rule prohibits boats from entering a construction zone at a TVA Fossil Plant.

(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 Commission anticipates no record keeping associated with this rule.

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

The Commission anticipates no probable effect to small businesses.

(4) 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 business;

The Commission is unaware of alternatives to the proposed rule and does not believe the rule as proposed would be burdensome to small businesses.

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

The Commission is unaware of 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.

The Commission anticipates no probable effect to small businesses and exemptions to this rule would likely not be beneficial.

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)

Will passage of this rule have a projected financial impact on local governments?

The Commission is not aware of any projected financial impacts on local governments.

Please describe the increase in expenditures or decrease in revenues:

N/A

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For Department of State Use Only

Sequence Number: 12-28-13
Rule ID(s): 5641
File Date: 12/23/13
Effective Date: 3/23/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Boating & Law Enforcement
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@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**
1660-02-07	Rules and Regulations Governing Operations of Vessels
Rule Number	**Rule Title**
1660-02-07-.04	Old Hickory Lake

Rulemaking Hearing Rules of the
Tennessee Wildlife Resources Agency

Rule Chapter 1660-02-07
Rules and Regulations Governing Operations of Vessels

Amendment

Rule 1660-02-07-.04, Old Hickory Lake, is amended by adding a new paragraph (21) which shall read as follows:

(21) Vessels are prohibited from entering the discharge channel at the TVA Fossil Plant near Cumberland River Mile (CRM) 243 as marked by informational buoys and barrier floats.

Authority: T.C.A. §69-9-209. Administrative History: Original rule certified May 8, 1974. Amendment filed May 28, 1975; effective June 28, 1997. Amendment filed February 6, 1978; effective March 8, 1978. Amendment filed July 2, 1979; effective August 16, 1979. Amendment filed August 1, 1990; effective September 15, 1990. Amendment filed April 26, 2013; effective July 25, 2013.

* 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
Jeff McMillin	✓			
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Tom Rice	✓			
Jim Ripley	✓			
Julie Schuster	✓			
Clayton Stout	✓			
James Stroud	✓			
Trey Teague				✓
David Watson	✓			
Jamie Woodson	✓			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 12/06/2013 (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: *09/18/2013*

Rulemaking Hearing(s) Conducted on: (add more dates). *12/06/2013*

Date: 12-10-13

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

LISA CRAWFORD STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Subscribed and sworn to before me on: 12-10-13

Notary Public Signature: Lisa Crawford

My commission expires on: 5-5-15

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.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

12-19-13
Date

Department of State Use Only

Filed with the Department of State on: 12/23/13

Effective on: 3/23/14

Tre Hargett
Secretary of State

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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Health
SUBJECT:	Controlled substance monitoring database.
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 53-10-305
EFFECTIVE DATES:	March 16, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	The rules remove veterinarians from the definition of "hardship" to clarify that veterinarians are not required to apply for a hardship waiver to be exempt from electronic reporting requirements since the law exempts veterinarians from reporting to the database in the required format. Also, the rules exclude veterinarians from submission of reports as veterinarians are not considered dispensers.

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 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)

REGULATORY FLEXIBILITY ANALYSIS

The Board must consider whether the rules or rule amendments being proposed are such that in relation to small businesses (businesses with 50 or fewer full time employees) the proposed language of the rules or amendments and/or the procedures contained therein meet all of the following requirements:

(1) These rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules; and

(2) These rules exhibit clarity, conciseness, and lack of ambiguity; and

(3) These rules establish flexible compliance and/or reporting requirements for small businesses; and

(4) These rules establish friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; and

(5) These rules consolidate or simplify compliance or reporting requirements for small businesses; and

(6) These rules establish performance standards for small businesses as opposed to design or operational standards; and

(7) These rules do not create unnecessary 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 Pharmacy

Rulemaking hearing date: 11/13/2013

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:**

   This rule impacts veterinarians and veterinary health care providers, but will not impose any novel or increased costs on those affected.

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 administrative costs associated with these reporting requirements are minimal.

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

   It is unlikely that consumers will be impacted by the proposed rules. Small businesses, including veterinary practices, will have a clearer understanding of their legal responsibilities. It is difficult to quantify this probable effect, but it will likely make it easier for impacted small businesses to comply with the requirements of the Prescription Safety Act of 2012.

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 proposed rule would definitively exempt veterinarians from reporting information to the database in the otherwise-required electronic format. The proposed rule is the least burdensome, intrusive, and costly method of achieving this purpose.

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

   Federal: N/A

   State: N/A

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.**

   Veterinarians are exempt from reporting information to the CSMD in the format required by law. This format is not utilized by any practice management or prescription software currently available to veterinarians. The proposed rule provides further clarity on the responsibilities of veterinarians under the Prescription Safety Act of 2012. It is an exemption in and of itself, as it makes it clear that veterinarians are exempt from legal requirements which mandate the reporting of dispensing information to the CSMD in a particular electronic format.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "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 financial impact on local governments."

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

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For Department of State Use Only

Sequence Number: 12-13-13
Rule ID(s): 51616
File Date: 12/16/13
Effective Date: 3/16/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Health
Division:	
Contact Person:	Stefan Cange, Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Stefan.Cange@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**
1140-11	Controlled Substance Monitoring Database
Rule Number	**Rule Title**
1140-11-.01	Definitions
1140-11-.04	Submission of Information

RULES
OF
THE TENNESSEE BOARD OF PHARMACY

CHAPTER 1140-11
CONTROLLED SUBSTANCE MONITORING DATABASE

TABLE OF CONTENTS

1140-11-.01	Definitions	1140-11-.04	Submission of Information
1140-11-.02	Access to Database	1140-11-.05	Practice Sites – Electronic Access
1140-11-.03	Alternative Identification of Patients	1140-11-.06	Prescriber and Dispenser Responsibilities

1140-11-.01 DEFINITIONS.

(1) The following definitions shall be applicable to this chapter:

(a) "Board" means the Board of Pharmacy created by T.C.A., Title 63, Chapter 10, part 3;

(b) "Client" means the owner or custodian of any animal under the care of a licensed veterinarian.

(c) "Commissioner" means the Commissioner of Health;

(d) "Committee" means the Controlled Substance Database Committee created by T.C.A., Title 53, Chapter 10, part 3;

(e) "Controlled substance(s)" means a drug, substance, or immediate precursor in Schedules I through VI as defined or listed in the Tennessee Drug Control Act, compiled in T.C.A., Title 39, Chapter 17, part 4;

(f) "Controlled substance dispensed identifier" means the National Drug Code Number of the controlled substance;

(g) "Database" means the controlled substance database created by T.C.A., Title 53, Chapter 10, part 3;

(h) "Department" means the Department of Health;

(i) "Dispense" means to physically deliver a controlled substance covered by this chapter to any person, institution or entity with the intent that it be consumed away from the premises in which it is dispensed. It does not include the act of writing a prescription by a practitioner to be filled at a pharmacy. For purposes of this part, physical delivery includes mailing controlled substances into this state;

(j) "Dispenser" means any health care practitioner who is licensed and has current authority to dispense controlled substances;

(k) "Dispenser identifier" means the Drug Enforcement Administration Registration Number of the dispenser as defined in T.C.A. § 53-10-302(8);

~~(l) "Hardship" means a situation where a dispenser, including a veterinarian, does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the American Society for Automation in Pharmacy Telecommunications Format for Controlled Substances. "Hardship" may also include other situations as determined by the Committee in its sole discretion;~~

(Rule 1140-11-.01, continued)

(l) "Hardship" means a situation where a dispenser does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the American Society for Automation in Pharmacy Telecommunications Format for Controlled Substances. "Hardship" may also include other situations as determined by the Committee in its sole discretion;

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(m) "Healthcare practitioner" means:

1. a physician, dentist, optometrist, veterinarian, or other person licensed, registered, or otherwise permitted to prescribe, distribute, dispense or administer a controlled substance in the course of professional practice; or

2. a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, or administer a controlled substance in the course of professional practice;

(n) "Healthcare practitioner extender" means any registered or licensed healthcare professional, and up to two (2) unlicensed persons designated by the prescriber or dispenser, who act as agents of the prescriber or dispenser. The prescriber or dispenser shall be responsible for all actions taken by the agents, pursuant to this part;

(o) "Law enforcement personnel" means agents of the Tennessee Bureau of Investigation, agents of a judicial district drug task force, federal law enforcement officers commissioned by a federal government entity, certified law enforcement officers certified pursuant to T.C.A. § 38-8-107, and certified law enforcement officers in other states;

(p) "Patient" means a person or an animal who is receiving medical treatment from a prescriber;

(q) "Patient identifier" means the patient's full name; address including zip code; date of birth; and social security number or an alternative identification number as defined by this rule;

(r) "Person" means any individual, partnership, association, corporation and the state of Tennessee, its departments, agencies and employees, and the political subdivisions of Tennessee and their departments, agencies and employees;

(s) "Prescriber" means an individual licensed as a medical doctor, podiatrist, dentist, optometrist, veterinarian, osteopathic physician, a physician assistant who has authority to issue prescriptions for controlled substances, or an advanced practice nurse with a certificate of fitness to prescribe;

(t) "Prescriber identifier" means the Drug Enforcement Administration Registration Number of the prescriber as defined by this rule.

Authority: *T.C.A. §§ 53-10-302 and 53-10-303(f).* ***Administrative History:*** *Original rule filed December 22, 2005; effective March 7, 2006. Emergency rule filed January 4, 2013; effective through July 3, 2013. Repeal and new rule filed April 2, 2013; effective July 1, 2013.*

1140-11-.02 ACCESS TO DATABASE.

(1) All prescribers with DEA numbers who prescribe controlled substances, and all dispensers in practice who provide direct care to patients in Tennessee for more than fifteen (15) calendar days per year, shall be registered in the database. New licensees shall have up to thirty (30)

(Rule 1140-11-.02, continued)

calendar days after notification of licensure to register in the database. Licensed veterinarians who never prescribe a controlled substance in an amount intended to treat a non-human patient for more than forty-eight (48) hours shall not be required to register in the database.

(2) Information sent to, contained in, and reported from the database in any format shall be made available only as provided for in T.C.A. § 53-10-306 and to the following persons in accordance with this chapter:

(a) A prescriber conducting medication history reviews who is actively involved in the care of a patient or a bona fide prospective patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access;

(b) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of a patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access;

(c) A county medical examiner appointed pursuant to T.C.A. § 38-7-104 when acting in an official capacity as established in T.C.A. § 38-7-109;

(d) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as part of their assigned duties and responsibilities directly related to TennCare:

1. The Office of the Inspector General;

2. The Medicaid Fraud Control Unit; and

3. The Bureau of TennCare's Chief Medical Officer, Associate Chief Medical Directors, Director of Quality Oversight, and Associate Director of Pharmacy.

(e) A quality improvement committee, as defined in T.C.A. § 68-11-272, of a hospital licensed under T.C.A. title 68 or title 33, as part of the committee's confidential and privileged activities under T.C.A. § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;

(f) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, or considering prescribing or dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access, and the prescriber or dispenser shall cancel the healthcare practitioner extender's access to the database upon the end of the agency relationship;

(Rule 1140-11-.02, continued)

(g) A manager of any investigation or prosecution unit of a health related board, committee or other governing body that licenses practitioners, who has access to the database with the committee's permission pursuant to T.C.A. § 53-10-308. Such manager may release the database information to the state of Tennessee health related boards, health related committees, the department, and representatives of health-related professional recovery programs;

(h) The following personnel of the Department of Mental Health and Substance Abuse Services, who are actively engaged in analysis of controlled substance prescription information, as part of their assigned duties and responsibilities. These personnel shall have access to prescription information for specific patients. Additionally, aggregate controlled substances prescribing information may be provided to these personnel and may be shared with other personnel of the Department of Mental Health and Substances Abuse Services as needed to fulfill the assigned duties and responsibilities:

1. The Chief Pharmacist;

2. The State Opioid Treatment Authority (SOTA) or SOTA designees; and

3. The Medical Director; or

(i) A person who has the patient's written permission to have access to the patient's records in the database.

(3) Law enforcement personnel engaged in an official investigation and enforcement of state or federal laws involving controlled substances or violations of T.C.A., Title 53, Chapter 10, part 3 may access information contained in the database pursuant to this chapter.

(4) Law enforcement agencies and personnel seeking or receiving information from the database pursuant to this section shall comply with the following requirements:

(a) Any law enforcement agency or judicial district drug task force that requires one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff, or the judicial district drug task force district attorney general in the judicial district in which the agency or task force has jurisdiction. By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year.

(b) If the Tennessee Bureau of Investigation (TBI) requires one (1) or more of its agents to have the authorization to request information from the database, each such agent shall first be pre-approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board of pharmacy by the TBI director. By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year.

(c) An application submitted by law enforcement personnel shall include at least the following:

1. Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate

(Rule 1140-11-.02, continued)

district attorney general and, if a TBI agent, the TBI director and their email addresses; and

2. Signatures of the applicant, the applicant's approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving TBI division head and the TBI director.

(d) When requesting information from the database, law enforcement personnel must provide a case number corresponding with an official investigation involving controlled substances.

(e) Law enforcement personnel, including judicial district drug task force agents and TBI agents, who are authorized to request information from the database, shall resubmit their identifying application information that was submitted pursuant to subparagraph (4)(c) to the appropriate district attorney general or to the TBI director, by November 20 of each year. Such resubmitted applications shall be sent by the appropriate district attorney general or the TBI director to the board of pharmacy by December 1 each year. If during the calendar year, a name is added to the list, removed from the list, or information about a person on the list changes, the appropriate district attorney general or TBI director shall immediately notify the board of pharmacy of any changes to the list submitted or in the information submitted for each officer or agent on the list application.

(5) Information obtained from the database may be shared with other law enforcement personnel or prosecutorial officials, only upon the direction of the officer or agent who originally requested the information, and may only be shared with law enforcement personnel from other law enforcement agencies who are directly participating in an official joint investigation.

(6) Any information obtained from the database that is sent to a law enforcement official or judicial district drug task force agent shall also be sent to the district attorney general of the judicial district in which such officer or agent has jurisdiction. Likewise, any database information sent to a TBI agent shall also be sent to the TBI director.

(7) Information obtained from the database by law enforcement personnel shall be retained by the law enforcement personnel's respective department or agency. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes. Information obtained from the database shall be maintained as evidence in accordance with each law enforcement agency's respective procedures relating to the maintenance of evidence.

(8) If a law enforcement officer, judicial district drug task force agent, or TBI agent has probable cause to believe, based upon information received from a database request, that a prescriber or pharmacist may be acting or may have acted in violation of the law, the officer or agent shall consult with the board of pharmacy inspector's office if a pharmacist is believed to have acted or is acting unlawfully or to the health related boards' investigations unit if a prescriber is believed to have acted or is acting unlawfully.

(9) At least every six (6) months, the board of pharmacy shall send a list to each district attorney general containing all requests made for database information during the previous six (6) months. The list shall include the name of the requesting officer or agent, the officer or agent's agency, the date of the request, and the nature of the request, including the case number, for each officer or agent making a request in such district attorney's judicial district. Likewise, a list shall be sent to the TBI director for all TBI agents making requests during the previous six (6) months.

(a) Each district attorney general and the TBI director shall use the list to verify database requests made during the preceding six (6) month period, and conduct an audit in

(Rule 1140-11-.02, continued)

accordance with T.C.A. § 53-10-306(j)(2). Verification of all database requests on the list received by each district attorney general and the TBI director must be sent back to the board of pharmacy within sixty (60) days of receipt. Where database information requests do not correspond to an investigation in the applicable jurisdiction or if the information requested was not relevant or pertinent to such an investigation, the district attorney general or TBI director shall so note on the verified list and shall investigate and make a report to the board of pharmacy within sixty (60) days.

(b) The results of the audit shall be discoverable by a prescriber, dispenser, or healthcare practitioner extender charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by an appropriate licensing board for a violation of any law involving controlled substances, but only the results pertaining to that prescriber, dispenser, or healthcare practitioner extender are discoverable. If, however, there is an active criminal investigation involving a prescriber, dispenser, or healthcare practitioner extender, or the prescriber, dispenser, or healthcare practitioner extender is under investigation by any investigations or prosecution unit of the appropriate licensing board, the results of the audit shall not be discoverable by the prescriber, dispenser, or healthcare practitioner extender during either such period.

Authority: *T.C.A. §§ 53-10-303(f), 53-10-304(b), 53-10-305(e), 53-10-306, and 53-10-308.* ***Administrative History:*** *Original rule filed December 22, 2005; effective March 7, 2006. Emergency rule filed January 4, 2013; effective through July 3, 2013. Repeal and new rule filed April 2, 2013; effective July 1, 2013.*

1140-11-.03 ALTERNATIVE IDENTIFICATION OF PATIENTS.

(1) If a patient does not have a social security number or refuses to provide his or her social security number to be used as a patient identifier, then the board shall use the patient's driver's license number or telephone number as the patient identifier in the database.

(2) If a patient does not have a social security number, a driver's license number or a telephone number, then the board shall use the number "000-00-0000" as the patient identifier in the database.

(3) If a patient or a patient's agent refuses to provide his or her social security number, driver's license number or telephone number to his or her prescriber or dispenser, then the board shall use the number "999-99-9999" as the patient identifier in the database.

(4) If a patient's social security number is not available, then the board shall use the social security number, driver's license number or telephone number of the person obtaining the controlled substance on behalf of the patient as the patient identifier in the database or the numbers "000-00-0000" (does not have the data) or "999-99-9999" (refusal to provide data), as applicable.

(5) If a patient is a child who does not have a social security number, then the board shall use the parent's or guardian's social security number, driver's license number, telephone number, or number "000-00-0000" (does not have data) or number "999-99-9999" (refusal to provide data) as the patient identifier in the database.

(6) If a patient is an animal, then the board shall use the owner's social security, driver's license number, telephone number, or number "000-00-0000" (does not have data) or number "999-99-9999" (refusal to provide data) as the patient identifier in the database.

Authority: *T.C.A. §§ 53-10-303(f) and 53-10-305.* ***Administrative History:*** *Original rule filed December 22, 2005; effective March 7, 2006.*

(Rule 1140-11-.04, continued)

1140-11-.04 SUBMISSION OF INFORMATION.

(1) Each dispenser or dispenser's agent shall, regarding each controlled substance dispensed, submit to the database all of the following information:

(a) Prescriber identifier;

(b) Dispensing date of controlled substance;

(c) Patient identifier and/or client identifier;

(d) Controlled substance dispensed identifier;

(e) Quantity of controlled substance dispensed;

(f) Strength of controlled substance dispensed;

(g) Estimated number of days' supply;

(h) Dispenser identifier;

(i) Date the prescription was issued by the prescriber;

(j) Whether the prescription was new or a refill; and

(k) Source of payment.

(2) The information in the database, as required by paragraph one (1) above, shall be submitted at least once every seven (7) days for all controlled substances dispensed during the preceding seven (7) day period.

(3) The data required by this rule shall be submitted to the database by any dispenser, or dispenser's agent, who dispenses a controlled substance contained in Schedules II, III, and IV, and Schedule V controlled substances identified by the Committee as demonstrating a potential for abuse.

(4) The reporting requirement shall not apply for the following:

(a) A drug administered directly to a patient;

(b) Any drug sample dispensed;

(c) Any drug dispensed by a licensed veterinarian; provided, that the quantity dispensed is limited to an amount adequate to treat the non-human patient for a maximum of forty-eight (48) hours;

(d) Any facility that is registered by the United States drug enforcement administration as a narcotic treatment program and is subject to the recordkeeping provisions of 21 CFR 1304.24; or

(e) Any drug dispensed by a licensed healthcare facility; provided, that the quantity dispensed is limited to an amount that is adequate to treat the patient for a maximum of forty-eight (48) hours.

(5) The dispenser, or dispenser's agent, shall submit the data that is required by T.C.A. § 53-10-305 in one of the following forms:

(Rule 1140-11-.04, continued)

(a) An electronic device compatible with the Committee's receiving device or the receiving device of the Committee's agent; or

(b) Other electronic or data format approved by the Committee.

~~(6) The dispenser shall transmit the data that is required, pursuant to T.C.A. § 53-10-305, in the 2009 version of the Telecommunications Format for Controlled Substances established by the American Society for Automation in Pharmacy (ASAP).~~

(6) The dispenser, excluding a veterinarian, shall transmit the data that is required, pursuant to T.C.A. § 53-10-305, in the 2009 version of the Telecommunications Format for Controlled Substances established by the American Society for Automation in Pharmacy (ASAP).

(7) If the dispenser does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the ASAP, or for whom electronic reporting would cause an undue hardship as determined by the Committee, then that dispenser may request a waiver from the electronic reporting requirement from the Committee. The waiver may be valid for two (2) years from ratification by the Committee.

(8) If the Committee grants the dispenser a waiver from the electronic reporting requirement, then the dispenser shall comply with an alternative method of reporting the data as determined by the Committee, such as submitting the required data in writing on a form approved by the Committee.

Authority: *T.C.A. §§ 53-10-303(f), 53-10-304 and 53-10-305.* ***Administrative History:*** *Original rule filed December 22, 2005; effective March 7, 2006. Emergency rule filed January 4, 2013; effective through July 3, 2013. Repeal and new rule filed April 2, 2013; effective July 1, 2013.*

1140-11-.05 PRACTICE SITES – ELECTRONIC ACCESS.

(1) Each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a prescriber or dispenser provides healthcare services to a human patient potentially receiving a controlled substance.

(2) This rule shall not apply to dispensers who are not required to report, pursuant to T.C.A. § 53-10-304(d) or § 53-10-305(g).

(3) A violation of paragraph one (1) above is punishable by a civil penalty not to exceed one hundred dollars ($100) per day assessed against the person or entity operating the practice site; provided, however, that the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database

Authority: *T.C.A. §§ 53-10-303(f) and 53-10-310.* ***Administrative History:*** *Emergency rule filed January 4, 2013; effective through July 3, 2013. Repeal and new rule filed April 2, 2013; effective July 1, 2013.*

1140-11-.06 PRESCRIBER AND DISPENSER RESPONSIBILITIES (EFFECTIVE APRIL 1, 2013).

(1) All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted by T.C.A. Title 53, Chapter 10, part 3, shall check the database prior to prescribing one of the controlled substances identified below in paragraph (3) to a human patient at the beginning of a new episode of treatment and shall check the database for the human patient at least annually when that prescribed controlled substance remains part of treatment.

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(Rule 1140-11-.06, continued)

(2) Before dispensing, a dispenser shall have the professional responsibility to check the database or have a healthcare practitioner extender check the database, if the dispenser is aware or reasonably certain, that a person is attempting to obtain a Schedule II-V controlled substance, identified by the Committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of T.C.A. § 53-11-402.

(3) The controlled substances which trigger a check of the database pursuant to paragraph (1) above include, but are not limited to, all opioids and benzodiazepines.

(4) Prescribers are not required to check the database before prescribing or dispensing one of the controlled substances identified in paragraph (3) above or added to that list by the Committee if one (1) or more of the following conditions is met:

(a) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;

(b) The Committee has determined that prescribers in a particular medical specialty shall not be required to check the database as a result of the low potential for abuse by patients receiving treatment in that medical specialty;

(c) The controlled substance is prescribed or dispensed to a patient as a non-refillable prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility;

(d) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single, seven-day treatment period and does not allow a refill.

Authority: *T.C.A. §§ 53-10-303(f) and 53-10-310.* ***Administrative History:*** *Emergency rule filed January 4, 2013; effective through July 3, 2013. Repeal and new rule filed April 2, 2013; effective July 1, 2013.*

* 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)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of Health (board/commission/ other authority) on 10/21/2013 (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: *08/23/13 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *10/21/13 (mm/dd/yy)*

Date: 11/4/13

Signature:

Name of Officer: Stefan Cange

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 11-4-13

Notary Public Signature: Suzanne Mechkovski

My commission expires on: MY COMMISSION EXPIRES APRIL 19, 2017

SUZANNE MECHKOVSKI STATE OF TENNESSEE NOTARY PUBLIC 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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-10-13
Date

Department of State Use Only

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Filed with the Department of State on: 12/16/13

Effective on: 3/16/14

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Health
DIVISION:	Health Care Facilities
SUBJECT:	Fees, health care facilities, licensure renewal dates, food and dietetic service directors, signage requirements, qualifications for persons employed by adult care homes.
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 68-11-209
EFFECTIVE DATES:	March 16, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	The rules changes the licensure renewal date from June 30th of each year to the anniversary date of the license's original issuance for hospitals, prescribed child care centers, nursing homes, ambulatory surgical centers, homes for the aged, residential hospices, birthing centers, assisted-care living facilities, home care organizations, supportive living facilities, end stage renal dialysis clinics, outpatient diagnostic centers, and adult care homes. The rules clarify the requirements for food and dietetic directors for hospitals, prescribed child care centers, and nursing homes. The rules specify that the penalty for late payment of a renewal fee for a licensed health care facility will not exceed twice the amount of an annual renewal fee. The rules incorporate the signage requirements contained in the Freedom From Coercion Act (T.C.A. 39-15-202(A)(2)), advising persons of their right not to be coerced into having an abortion, at hospitals and ambulatory surgical treatment centers that provide abortions. The rules clarify the amount of Dantrolene required to be kept onsite at ambulatory surgical treatment centers.

The rules clarify when a physical location in Tennessee is required for a home medical equipment home care organization.

The rules authorize the adult care home provider, the resident manager, and the substitute caregiver at an adult care home Level 2 to hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist.

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.

PUBLIC HEARING COMMENTS

TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES

The rulemaking hearing for the Tennessee Department of Health, Board for Licensing Health Care Facilities was held on May 1, 2013 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Diona E. Layden, Deputy General Counsel, presided over the hearing.

The Board for Licensing Health Care Facilities received the written comment from the Tennessee Health Care Association (THCA) relative to the basic services provision outlining the requirements for food and dietetic services directors in nursing homes. The THCA supported the rule changes.

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.

Regulatory Flexibility Analysis

(1) The proposed rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.

(2) The proposed rules exhibit clarity, conciseness, and lack of ambiguity.

(3) The proposed rules are not written with special consideration for the flexible compliance and/or reporting requirements because the Board for Licensing Health Care Facilities has, as its primary mission, the protection of the health, safety and welfare of Tennesseans.

(4) The compliance requirements throughout the proposed rules are as user-friendly as possible while still allowing the Board to achieve its mandated mission. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow those affected by the rules to come into compliance.

(5) Compliance requirements are simplified.

(6) The performance standards required in the proposed rules are basic and do not necessitate the establishment of design or operational standards.

(7) There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

1. **Types of small businesses that will be directly affected by the proposed rules:**

   Hospitals, Prescribed Child Care Centers, Nursing Homes, Ambulatory Surgical Treatment Centers, Homes for the Aged, Residential Hospices, Birthing Centers, Assisted-Care Living Facilities, Home Care Organizations, HIV Supportive Living Facilities, End Stage Renal Dialysis Clinics, Outpatient Diagnostic Centers, and Adult Care Homes.

2. **Types of small businesses that will bear the cost of the proposed rules:**

   Hospitals, Prescribed Child Care Centers, Nursing Homes, Ambulatory Surgical Treatment Centers, Homes for the Aged, Residential Hospices, Birthing Centers, Assisted-Care Living Facilities, Home Care Organizations, HIV Supportive Living Facilities, End Stage Renal Dialysis Clinics, Outpatient Diagnostic Centers, and Adult Care Homes.

3. **Types of small businesses that will directly benefit from the proposed rules:**

   Hospitals, Prescribed Child Care Centers, Nursing Homes, Ambulatory Surgical Treatment Centers, Homes for the Aged, Residential Hospices, Birthing Centers, Assisted-Care Living Facilities, Home Care Organizations, HIV Supportive Living Facilities, End Stage Renal Dialysis Clinics, Outpatient Diagnostic Centers, and Adult Care Homes.

6. **Description of how small business will be adversely impacted by the proposed rules:**

   Small businesses should not be adversely impacted by the proposed rule amendments.

7. **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:**

   The proposed rule amendments should not cause a burden to small businesses.

8. **Comparison with Federal and State Counterparts:**

   The proposed rule amendments do not appear to be inconsistent with similar federal and/or state requirements.

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 an impact on local governments.

Department of State
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For Department of State Use Only

Sequence Number: 12-15-13
Rule ID(s): 5617-5632
File Date: 12/16/13
Effective Date: 3/16/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Department of Health
Division: Division of Health Care Facilities
Contact Person: Diona E. Layden
Deputy General Counsel
Address: 665 Mainstream Drive
Zip: 37243
Phone: (615) 741-1611
Email: Diona.Layden@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-.02	Licensing Procedures
1200-08-01-.04	Administration
1200-08-01-.06	Basic Hospital Functions

Chapter Number	**Chapter Title**
1200-08-02	Standards for Prescribed Child Care Centers
Rule Number	**Rule Title**
1200-08-02-.02	Licensing Procedures
1200-08-02-.06	Basic Services

Chapter Number	**Chapter Title**
1200-08-06	Standards for Nursing Homes
Rule Number	**Rule Title**
1200-08-06-.02	Licensing Procedures
1200-08-06-.06	Basic Services

Chapter Number	**Chapter Title**
1200-08-10	Standards for Ambulatory Surgical Treatment Centers
Rule Number	**Rule Title**
1200-08-10-.02	Licensing Procedures
1200-08-10-.04	Administration
1200-08-10-.06	Basic Services

Chapter Number	Chapter Title
1200-08-11	Standards for Homes for the Aged
Rule Number	**Rule Title**
1200-08-11-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-15	Standards for Residential Hospices
Rule Number	**Rule Title**
1200-08-15-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-24	Standards for Birthing Centers
Rule Number	**Rule Title**
1200-08-24-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-25	Standards for Assisted-Care Living Facilities
Rule Number	**Rule Title**
1200-08-25-.03	Licensing Requirements

Chapter Number	Chapter Title
1200-08-26	Standards for Home Care Organizations Providing Home Health Services
Rule Number	**Rule Title**
1200-08-26-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-27	Standards for Home Care Organizations Providing Hospice Services
Rule Number	**Rule Title**
1200-08-27-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-28	Standards for HIV Supportive Living Centers
Rule Number	**Rule Title**
1200-08-28-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-29	Standards for Home Care Organizations Providing Home Medical Equipment
Rule Number	**Rule Title**
1200-08-29-.02	Licensing Procedures
1200-08-29-.06	Basic Agency Functions

Chapter Number	Chapter Title
1200-08-32	Standards for End Stage Renal Dialysis Clinics
Rule Number	**Rule Title**
1200-08-32-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-34	Standards for Home Care Organizations Providing Professional Support Services
Rule Number	**Rule Title**
1200-08-34-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-35	Standards for Outpatient Diagnostic Centers
Rule Number	**Rule Title**

1200-08-35-.02	Licensing Procedures

Chapter Number	Chapter Title
1200-08-36	Standards for Adult Care Homes – Level 2
Rule Number	**Rule Title**
1200-08-36-.02	Licensure and Renewal

(Rule 1200-08-01-.01, continued)

any medical care on the grounds that the person does not have a medical need for hospital care.

(87) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(88) Treating Physician. The physician selected by or assigned to the patient and who has the primary responsibility for the treatment and care of the patient. Where more than one physician shares such responsibility, any such person may be deemed to be the "treating physician."

(89) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(90) Voluntary Delivery. The action of a mother in leaving an unharmed infant aged seventy-two (72) hours or younger on the premises of a hospital with any hospital employee or member of the professional medical community without expressing any intention to return for such infant, and failing to visit or seek contact with such infant for a period of thirty (30) days thereafter.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed April 3, 1974; effective May 3, 1974. Amendment filed November 30, 1984; effective December 30, 1984. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed April 26, 1996; effective July 8, 1996. Amendment filed November 30, 1999; effective February 6, 2000. Repeal, except for Paragraphs (1), (5), (8), (10), (11), (13), (16), (29) and (37) as promulgated February 6, 2000, and new rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed August 27, 2004; effective November 10, 2004. Amendments filed September 6, 2005; effective November 20, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendments filed March 18, 2010; effective June 16, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-01-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or state, county or local government unit, or division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any hospital without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the hospital.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any hospital without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferrable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the hospital.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(Rule 1200-08-01-.02, continued)

(b) Each applicant for a license shall pay an annual license fee based on the number of hospital beds. The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the hospital until a license has been issued. Applicants shall not hold themselves out to the public as being a hospital until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by T.C.A. §68-11-206(1), or as later amended, and of all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the hospital to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of a hospital has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the hospital's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the hospital is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;

6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are cancelled;

(Rule 1200-08-01-.02, continued)

7. The consolidation of a corporate facility owner with one or more corporations; or,

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Each hospital, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of hospital beds, as follows:

(a)	Less than 25 beds	$ 800.00
(b)	25 to 49 beds, inclusive	$ 1,000.00
(c)	50 to 74 beds, inclusive	$ 1,200.00
(d)	75 to 99 beds, inclusive	$ 1,400.00
(e)	100 to 124 beds, inclusive	$ 1,600.00
(f)	125 to 149 beds, inclusive	$ 1,800.00
(g)	150 to 174 beds, inclusive	$ 2,000.00
(h)	175 to 199 beds, inclusive	$ 2,200.00

For hospitals of two hundred (200) beds or more the fee shall be two thousand four hundred dollars ($2,400.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

(5) Renewal.

(Rule 1200-08-01-.02, continued)

(a) In order to renew a license, each hospital shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the annual renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-01-.02(4); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the hospital by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-201, 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, 68-11-216 and Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed January 16, 1992; effective March 2, 1992. Repeal and new rule filed March 18, 2000; effective May 30, 2000. Amendment filed December 2, 2003; effective February 15, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendments filed September 24, 2009; effective December 23, 2009.*

1200-08-01-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the hospital;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the patients of the hospital; and

(e) Failure to renew license.

(Rule 1200-08-01-.03, continued)

(2) The board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patients in the facility;

(c) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(d) Any prior violations by the facility of statutes, regulations or orders of the board.

(3) Inappropriate transfers are prohibited and violation of the transfer provisions shall be deemed sufficient grounds to suspend or revoke a hospital's license.

(4) When a hospital is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of the receipt of the deficiencies, the hospital must return a plan of correction indicating the following:

(a) How the deficiency will be corrected;

(b) The date upon which each deficiency will be corrected;

(c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and

(d) How the corrective action will be monitored to ensure that the deficient practice does not recur.

(5) Either failure to submit a plan of correction in a timely manner or a finding by the department that the plan of correction is unacceptable shall subject the hospital's license to possible disciplinary action.

(6) Any licensee or applicant for a license, aggrieved by a decision or action of the department or board, pursuant to this chapter, may request a hearing before the board. The proceedings and judicial review of the board's decision shall be in accordance with the Uniform Procedures Act, T.C.A. §4-5-101, et seq.

(7) Reconsideration and Stays. The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, 68-11-206, 68-11-208, 68-11-209, and 68-11-216.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed April 3, 1974; effective May 3, 1974. The following is a copy of T.C.A. §53-1317: Amendment filed February 26, 1985; effective March 28, 1985. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed December 30, 1986; effective February 13, 1987. Repeal and new rule filed March 18, 2000; effective May 30, 2000. Amendment filed March 1, 2007; effective May 15, 2007.*

1200-08-01-.04 ADMINISTRATION.

(1) The hospital must have an effective governing body legally responsible for the conduct of the hospital. If a hospital does not have an organized governing body, the persons legally

(Rule 1200-08-01-.04, continued)

responsible for the conduct of the hospital must carry out the functions specified in this chapter.

(2) The governing body shall appoint a chief executive officer or administrator who is responsible for managing the hospital. The chief executive officer or administrator shall designate an individual to act for him or her in his or her absence, in order to provide the hospital with administrative direction at all times.

(3) When licensure is applicable for a particular job, the number and renewal number of the current license or a copy of the internet verification of such license must be maintained in personnel. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Adequate medical screenings to exclude communicable disease shall be required of each employee.

(4) Whenever the rules and regulations of this chapter require that a licensee develop a written policy, plan, procedure, technique, or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. A hospital which violates a required policy also violates the rule and regulation establishing the requirement.

(5) Policies and procedures shall be consistent with professionally recognized standards of practice.

(6) No hospital shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Adult Protective Services, or the Comptroller of the State Treasury. A hospital shall neither retaliate, nor discriminate, because of information lawfully provided to these authorities, because of a person's cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.

(7) The hospital shall ensure a framework for addressing issues related to care at the end of life.

(8) The hospital shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

(9) Critical Access Hospital.

(a) The facility shall enter into agreements with one or more hospitals participating in the Medicare/Medicaid programs to provide services which the Critical Access Hospital is unable to provide.

(b) When there are no inpatients, the facility is not required to be staffed by licensed medical professionals, but must maintain a receptionist or other staff person on duty to provide emergency communication access. The hospital shall provide an effective system to ensure that a physician or a mid-level practitioner with training and experience in emergency care is on call and immediately available by telephone or radio and available on site within thirty (30) minutes, twenty-four (24) hours a day.

(10) All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post the following in the main public entrance:

(a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

(b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation; and

(Rule 1200-08-01-.04, continued)

(c) A statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in boldface type, for immediate assistance and posted on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height.

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(11) "No smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.

(12) Hospice services may be provided in an area designated by a hospital for exclusive use by a home care organization certified as a hospice provider to provide care at the hospice inpatient or respite level of care in accordance with the hospice's Medicare certification. Admission to the hospital is not required in order for a patient to receive such hospice services, regardless of the patient's length of stay. The designation by a hospital of a portion of its facility for exclusive use by a home care organization to provide hospice services to its patients shall not:

(a) alter the license to bed complement of such hospital, or

(b) result in the establishment of a residential hospice.

(13) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

(14) Informed Consent

(a) Any hospital in which abortions, other than abortions necessary to prevent the death of the pregnant female, are performed shall conspicuously post a sign in a location defined below so as to be clearly visible to patients, which reads:

> Notice: It is against the law for anyone, regardless of the person's relationship to you, to coerce you into having or to force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened criminal offense to coerce an abortion.

(b) The sign shall be printed in languages appropriate for the majority of clients of the hospital with lettering that is legible and that is Arial font, at least 40-point bold-faced type.

(c) A hospital in which abortions are performed that is not a private physician's office or ambulatory surgical center shall post the required sign in the admissions or registration department used by patients on whom abortions are performed.

(d) A hospital shall be assessed a civil penalty by the board for licensing health facilities of two thousand five hundred dollars ($2,500.00) for each day of violation in which:

1. The sign required above was not posted during business hours when patients or prospective patients are present; and

(Rule 1200-08-01-.04, continued)

2. An abortion other than an abortion necessary to prevent the death of the pregnant female was performed in the hospital.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed December 2, 2003; effective February 15, 2004. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendments filed February 22, 2010; effective May 23, 2010.*

1200-08-01-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

(1) Every person admitted for care or treatment to any hospital covered by these rules shall be under the supervision of a physician who holds an unlimited license to practice in Tennessee. The name of the patient's attending physician shall be recorded in the patient's medical record.

(2) The above does not preclude the admission of a patient to a hospital by a dentist or podiatrist or certified nurse midwife licensed to practice in Tennessee with the concurrence of a physician member of the medical staff.

(3) This does not preclude qualified oral and maxillo-facial surgeons from admitting patients and completing the admission history and physical examination and assessing the medical risk of the procedure on their patients. A physician member of the medical staff is responsible for the management of medical problems.

(4) A diagnosis must be entered in the admission records of the hospital for every person admitted for care or treatment.

(5) Except in emergencies, no medication or treatment shall be given or administered to any patient in a hospital except on the order of a physician, dentist or podiatrist lawfully authorized to give such an order.

(6) The facility shall ensure that no person on the grounds of race, color, national origin, or handicap, will be excluded from participation in, be denied benefits of, or otherwise subjected to discrimination in the provision of any care or service of the facility. The facility shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

(7) For purposes of this chapter, the requirements for signature or countersignature by a physician, dentist, podiatrist or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established hospital protocol or rules.

(8) The hospital must ensure continuity of care and provide an effective discharge planning process that applies to all patients. The hospital's discharge planning process, including discharge policies and procedures, must be specified in writing and must:

(a) Be developed and/or supervised by a registered nurse, social worker or other appropriately qualified personnel;

(Rule 1200-08-01-.05, continued)

regularly scheduled board meeting to justify the need for exceeding its licensed bed capacity.

(24) Infant Abandonment.

(a) Any hospital shall receive possession of any newborn infant left on hospital premises with any hospital employee or member of the professional medical community, if the infant:

1. Was born within the preceding seventy-two (72) hour period, as determined within a reasonable degree of medical certainty;

2. Is left in an unharmed condition; and

3. Is voluntarily left by a person who purported to be the child's mother and who did not express an intention of returning for the infant.

(b) The hospital, any hospital employee and any member of the professional medical community at such hospital shall inquire whenever possible about the medical history of the mother or newborn and whenever possible shall seek the identity of the mother, infant, or the father of the infant. The hospital shall also inform the mother that she is not required to respond, but that such information will facilitate the adoption of the child. Any information obtained concerning the identity of the mother, infant or other parent shall be kept confidential and may only be disclosed to the Department of Children's Services. The hospital may provide the parent contact information regarding relevant social service agencies, shall provide the mother the name, address and phone number of the department contact person, and shall encourage the mother to involve the Department of Children's Services in the relinquishment of the infant. If practicable, the hospital shall also provide the mother with both orally delivered and written information concerning the requirements of these rules relating to recovery of the child and abandonment of the child.

(c) The hospital, any hospital employee and any member of the professional medical community at such hospital shall perform any act necessary to protect the physical health or safety of the child.

(d) As soon as reasonably possible, and no later than twenty-four (24) hours after receiving a newborn infant, the hospital shall contact the Department of Children's Services, but shall not do so before the mother leaves the hospital premises. Upon receipt of notification, the department shall immediately assume care, custody and control of the infant.

(e) Notwithstanding any provision of law to the contrary, any hospital, any hospital employee and any member of the professional medical community shall be immune from any criminal or civil liability for damages as a result of any actions taken pursuant to the requirements of these rules, and no lawsuit shall be predicated thereon; provided, however, that nothing in these rules shall be construed to abrogate any existing standard of care for medical treatment or to preclude a cause of action based upon violation of such existing standard of care for medical treatment.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, and 68-11-255.* ***Administrative History:*** *Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed September 17, 2002; effective December 1, 2002.*

1200-08-01-.06 BASIC HOSPITAL FUNCTIONS.

(Rule 1200-08-01-.06, continued)

(1) Performance Improvement.

(a) The hospital must ensure that there is an effective, hospital-wide performance improvement program to evaluate and continually improve patient care and performance of the organization.

(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:

1. All organized services including services furnished by a contractor, are evaluated (all departments including engineering, housekeeping, and accounting need to show evidence of process improvement.);

2. Nosocomial infections and medication therapy are evaluated;

3. All medical and surgical services performed in the hospital are evaluated as to the appropriateness of diagnosis and treatment;

4. The competency of all staff is evaluated at least annually; and

5. The facility shall develop and implement a system for measuring improvements in adherence to the hand hygiene program, central venous catheter insertion process, and influenza vaccination program.

(c) The hospital must have an ongoing plan, consistent with available community and hospital resources, to provide or make available social work, psychological, and educational services to meet the medically-related needs of its patients which assures that:

1. Discharge planning is initiated in a timely manner; and

2. Patients, along with their necessary medical information, are transferred or referred to appropriate facilities, agencies or outpatient services, as needed, for follow-up or ancillary care.

(d) The hospital must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.

(e) The hospital must demonstrate that the appropriate governing board or board committee is regularly apprised of process improvement activities, including identified deficiencies and the outcomes of remedial action.

(2) Medical Staff.

(a) The hospital shall have an organized medical staff operating under bylaws adopted by the medical staff and approved by the governing body, to facilitate the medical staff's responsibility in working toward improvement of the quality of patient care.

(b) The hospital and medical staff bylaws shall contain procedures, governing decisions or recommendations of appropriate authorities concerning the granting, revocation, suspension, and renewal of medical staff appointments, reappointments, and/or delineation of privileges. At a minimum, such procedures shall include the following elements: A procedure for appeal and hearing by the governing body or other

(Rule 1200-08-01-.06, continued)

designated committee if the applicant or medical staff feels the decision is unfair or wrong.

(c) The governing body shall be responsible for appointing medical staff and for delineating privileges. Criteria for appointment and delineation of privileges shall be clearly defined and included in the medical staff bylaws, and related to standards of patient care, patient welfare, the objectives of the institution or the character or competency of the individual practitioner. Independent patient admission privileges shall only be granted to currently licensed doctors of medicine, osteopathy, podiatry, or dentistry.

(d) The medical staff must adopt and enforce bylaws to effectively carry out its responsibilities and the bylaws must:

1. Be approved by the governing body;

2. Include a statement of the duties and privileges of each category of medical staff;

3. Describe the organization of the medical staff;

4. Describe the qualifications to be met by a candidate in order for the medical staff to recommend that the candidate be appointed by the governing body;

5. Include criteria for determining the privileges to be granted to individual practitioners and a procedure for applying the criteria to individuals requesting privileges; and

6. Include provisions for medical staff appointments granting active, associate, or courtesy medical staff membership, and/or provisions for the granting of clinical privileges. Such individuals must practice within the scope of their current Tennessee license, and the overall care of each patient must be under the supervision of a physician member of the medical staff.

(e) To be eligible for staff membership, an applicant must be a graduate of an approved program of medicine, dentistry, osteopathy, podiatry, optometry, psychology, or nurse-midwifery, currently licensed in Tennessee, competent in his or her respective field, and worthy in character and in matters of professional ethics.

(f) The medical staff shall be composed of currently licensed doctors of medicine, osteopathy, dentistry, and podiatry and may include optometrists, psychologists, and nurse-midwives. The medical staff must:

1. Periodically conduct appraisals of its members;

2. Examine the credentials of candidates for medical staff membership and make recommendations to the hospital on the appointment of the candidates; and

3. Participate actively in the hospital's process improvement plan implementation for the improvement of patient care delivery plans.

(g) The medical staff must be structured in a manner approved by the hospital or its governing body, well organized, and accountable to the hospital for the quality of the medical care provided to the patient. Disciplinary action involving medical staff taken by the hospital shall be reported to the appropriate licensing board or professional society.

(h) If the medical staff has an executive committee, a majority of the members of the committee must be doctors of medicine or osteopathy.

(Rule 1200-08-01-.06, continued)

(i) The responsibility for organization and conduct of the medical staff must be assigned only to an individual doctor of medicine or osteopathy, or a doctor of dental surgery or dental medicine.

(j) All physicians and non-employee medical personnel working in the hospital must adhere to the policies and procedures of the hospital. The chief executive officer or his or her designee shall provide for the adequate supervision and evaluation of the clinical activities of non-employee medical personnel which occur within the responsibility of the medical staff service.

(3) Infection Control.

(a) The hospital must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active performance improvement program for the prevention, control, and investigation of infections and communicable diseases.

(b) The chief executive officer or administrator shall assure that an infection control committee including members of the medical staff, nursing staff and administrative staff develop guidelines and techniques for the prevention, surveillance, control and reporting of hospital infections. Duties of the committee shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the hospital;

3. Written procedures governing the use of aseptic techniques and procedures in all areas of the hospital, including adoption of a standardized central venous catheter insertion process which shall contain these key components:

(i) Hand hygiene (as defined in 1200-08-01-.06(3)(g));

(ii) Maximal barrier precautions to include the use of sterile gowns, gloves, mask and hat, and large drape on patient;

(iii) Chlorhexidine skin antisepsis;

(iv) Optimal site selection;

(v) Daily review of line necessity; and

(vi) Development and utilization of a procedure checklist;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and patient wastes, traffic control and visiting rules in high risk areas, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. A method of control used in relation to the sterilization of supplies and water, and a written policy addressing reprocessing of sterile supplies;

(Rule 1200-08-01-.06, continued)

7. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing and scrubbing practices, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies; and

8. Continuing education provided for all hospital personnel on the cause, effect, transmission, prevention, and elimination of infections, as evidenced by front line employees verbalizing understanding of basic techniques.

(c) The administrative staff shall ensure the hospital prepares, and has readily available on site, an Infection Control Risk Assessment for any renovation or construction within existing hospitals. Components of the Infection Control Risk Assessment may include, but are not limited to, identification of the area to be renovated or constructed, patient risk groups that will potentially be affected, precautions to be implemented, utility services subject to outages, risk of water damage, containment measures, work hours for project, management of traffic flow, housekeeping, barriers, debris removal, plans for air sampling during or following project, anticipated noise or vibration generated during project.

(d) The chief executive officer, the medical staff and the chief nursing officer must ensure that the hospitalwide performance improvement program and training programs address problems identified by the infection control committee and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(e) The facility shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.

(f) The facility shall have an annual influenza vaccination program which shall include at least:

1. The offer of influenza vaccination to all staff and independent practitioners or accept documented evidence of vaccination from another vaccine source or facility;

2. A signed declination statement on record from all who refuse the influenza vaccination for other than medical contraindications;

3. Education of all direct care personnel about the following:

   (i) Flu vaccination,

   (ii) Non-vaccine control measures, and

   (iii) The diagnosis, transmission, and potential impact of influenza;

4. An annual evaluation of the influenza vaccination program and reasons for non-participation;

5. The requirements to complete vaccinations or declination statements are suspended by the Medical Director in the event of a vaccine shortage.

(Rule 1200-08-01-.06, continued)

(g) All hospitals shall each year from October 1 through March 1 offer the immunization for influenza and pneumococcal diseases to any inpatient who is sixty-five (65) years of age or older prior to discharging. This condition is subject to the availability of the vaccine.

(h) The facility and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:

1. Use of alcohol-based hand rubs or use of non-antimicrobial or antimicrobial soap and water before and after each patient contact if hands are not visibly soiled;

2. Use of gloves during each patient contact with blood or where other potentially infectious materials, mucous membranes, and non-intact skin could occur and gloves changed before and after each patient contact;

3. Use of either a non-antimicrobial soap and water or an antimicrobial soap and water for visibly soiled hands; and

4. Health care worker education programs which may include:

(i) Types of patient care activities that can result in hand contamination;

(ii) Advantages and disadvantages of various methods used to clean hands;

(iii) Potential risks of health care workers' colonization or infection caused by organisms acquired from patients; and

(iv) Morbidity, mortality, and costs associated with health care associated infections.

(i) All hospitals shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(j) Each department of the hospital performing decontamination and sterilization activities must develop policies and procedures in accordance with the current editions of the CDC guidelines for "Prevention and Control of Nosocomial Diseases" and "Isolation in Hospitals".

(k) The central sterile supply area(s) shall be supervised by an employee, qualified by education and/or experience with a basic knowledge of bacteriology and sterilization principles, who is responsible for developing and implementing written policies and procedures for the daily operation of the central sterile supply area, including:

1. Receiving, decontaminating, cleaning, preparing, and disinfecting or sterilizing reusable items;

2. Assembling, wrapping, removal of outer shipping cartons, storage, distribution, and quality control of sterile equipment and medical supplies;

3. Proper utilization of sterilization process monitors, including temperature and pressure recordings, and use and frequency of appropriate chemical indicator or bacteriological spore tests for all sterilizers; and

(Rule 1200-08-01-.06, continued)

4. Provisions for maintenance of package integrity and designation of event-related shelf life for hospital-sterilized and commercially prepared supplies;

5. Procedures for recall and disposal or reprocessing of sterile supplies; and

6. Procedures for emergency collection and disposition of supplies and the timely notification of attending physicians, general medical staff, administration and the hospital's risk management program when special warnings have been issued or when warranted by the hospital's performance improvement process.

(l) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Sterile supplies may not be stored in their outermost shipping carton. This would include both hospital and commercially prepared supplies. Decontamination and preparation areas shall be separated.

(m) Space and facilities for housekeeping equipment and supply storage shall be provided in each hospital service area. Storage for bulk supplies and equipment shall be located away from patient care areas. Storage shall not be allowed in the outermost shipping carton. The building shall be kept in good repair, clean, sanitary and safe at all times.

(n) The hospital shall appoint a housekeeping supervisor who is qualified for the position by education, training and experience. The housekeeping supervisor shall be responsible for:

1. Organizing and coordinating the hospital's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for hospital maintenance;

3. Assuring the clean and sanitary condition of the hospital to provide a safe and hygienic environment for patients and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and hospital policy; and

4. Verifying regular continuing education and competency for basic housekeeping principles.

(o) Laundry facilities located in the hospital shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

3. Provide space for storage of clean linen within nursing units and for bulk storage within clean areas of the hospital. Linen may not be stored in cardboard containers or other containers which offer housing for bugs; and,

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(Rule 1200-08-01-.06, continued)

(p) The hospital shall appoint a laundry service supervisor who is qualified for the position by education, training and experience. The laundry service supervisor shall be responsible for:

1. Establishing a laundry service, either within the hospital or by contract, that provides the hospital with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules, regulations and procedures;

4. Assuring that a contract laundry service complies with all applicable infection control rules, regulations and procedures; and,

5. Conducting periodic inspections of any contract laundry facility.

(q) The physical environment of the facility shall be maintained in a safe, clean and sanitary manner.

1. Any condition on the hospital site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.

2. Cats, dogs or other animals shall not be allowed in any part of the hospital except for specially trained animals for the handicapped and except as addressed by facility policy for pet therapy programs. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

3. A bed complete with mattress and pillow shall be provided. In addition, patient units shall be provided with at least one chair, a bedside table, an over bed tray and adequate storage space for toilet articles, clothing and personal belongings.

4. Individual wash cloths, towels and bed linens must be provided for each patient. Linen shall not be interchanged from patient to patient until it has been properly laundered.

5. Bath basin water service, emesis basin, bedpan and urinal shall be individually provided.

6. Water pitchers, glasses, thermometers, emesis basins, douche apparatus, enema apparatus, urinals, mouthwash cups, bedpans and similar items of equipment coming into intimate contact with patients shall be disinfected or sterilized after each use unless individual equipment for each is provided and then sterilized or disinfected between patients and as often as necessary to maintain them in a clean and sanitary condition. Single use, patient disposable items are acceptable but shall not be reused.

(4) Nursing Services.

(Rule 1200-08-01-.06, continued)

(a) The hospital must have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse, and have a licensed practical nurse or registered nurse on duty at all times.

(b) The hospital must have a well-organized service with a plan of administrative authority and delineation of responsibilities for patient care. The chief nursing officer must be a licensed registered nurse who is responsible for the operation of the service, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for all areas of the hospital.

(c) The nursing service must have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care to all patients as needed. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for bedside care of any patient.

(d) There must be a procedure to ensure that hospital nursing personnel for whom licensure is required have valid and current licenses.

(e) A registered nurse must assess, supervise and evaluate the nursing care for each patient.

(f) The hospital must ensure that an appropriate individualized plan of care is available for each patient.

(g) A registered nurse must assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the specialized qualifications and competence of the nursing staff available. All nursing personnel assigned to special care units shall have specialized training and a program in-service and continuing education commensurate with the duties and responsibilities of the individual. All training shall be documented for each individual so employed, along with documentation of annual competency skills.

(h) A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

1. the deceased was a patient at a hospital as defined by T.C.A. §68-11-201(27);

2. death was anticipated, and the attending physician has agreed in writing to sign the death certificate. Such agreement by the attending physician must be present with the deceased at the place of death;

3. the nurse is licensed by the state; and

4. the nurse is employed by the hospital providing services to the deceased.

(i) Non-employee licensed nurses who are working in the hospital must adhere to the policies and procedures of the hospital. The chief nursing officer must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service. Annual competency and skill documentation must be demonstrated on these individuals just as employees, if they perform clinical activities.

(j) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws

(Rule 1200-08-01-.06, continued)

and regulations, including applicable licensing requirements, and in accordance with the approved medical staff policies and procedures.

(k) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the patient. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they must be:

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and

2. Signed or initialed by the prescribing practitioner according to hospital policy.

(l) Blood transfusions and intravenous medications must be administered in accordance with state law and approved medical staff policies and procedures.

(m) There must be a hospital procedure for reporting transfusion reactions, adverse drug reactions, and errors in administration of drugs.

(5) Medical Records.

(a) The hospital shall comply with the Tennessee Medical Records Act, T.C.A. §68-11-301, et seq. A hospital shall transfer copies of patient medical records in a timely manner to requesting practitioners and facilities.

(b) The hospital must have a medical record service that has administrative responsibility for medical records. The service shall be supervised by a Registered Health Information Administrator (RHIA), a Registered Health Information Technician (RHIT), or a person qualified by work experience. A medical record must be maintained for every individual evaluated or treated in the hospital.

(c) The organization of the medical record service must be appropriate to the scope and complexity of the services performed. The hospital must employ adequate personnel to ensure prompt completion, filing and retrieval of records.

(d) The hospital must maintain a medical record for each inpatient and outpatient. Medical records must be accurate, promptly completed, properly filed and retained, and accessible. The hospital must use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(e) All medical records, either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years, or for the period of minority plus one year for newborns, after which such records may be destroyed. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of its contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the hospital's policies and procedures, and no record may be destroyed on an individual basis.

(f) When a hospital closes with no plans of reopening, an authorized representative of the hospital may request final storage or disposition of the hospital's medical records by the department. Upon transfer to the department, the hospital relinquishes all control over final storage of the records in the files of the Tennessee Department of Finance and Administration and the files shall become property of the State of Tennessee.

(Rule 1200-08-01-.06, continued)

(g) The hospital must have a system of coding and indexing medical records. The system must allow for timely retrieval by diagnosis and procedure.

(h) The hospital must have a procedure for ensuring the confidentiality of patient records. Information from or copies of records may be released only to authorized individuals, and the hospital must ensure that unauthorized individuals cannot gain access to or alter patient records. Original medical records must be released by the hospital only in accordance with federal and state laws, court orders or subpoenas.

(i) The medical record must contain information to justify admission and continued hospitalization, support the diagnosis, and describe the patient's progress and response to medications and services.

(j) All entries must be legible, complete, dated and authenticated according to hospital policy.

(k) All records must document the following:

1. Evidence of a physical examination, including a health history, performed and/or updated no more than forty-five (45) days prior to admission or within forty-eight (48) hours following admission;

2. Admitting diagnosis;

3. Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient;

4. Documentation of complications, hospital acquired infections, and unfavorable reactions to drugs and anesthesia;

5. Properly executed informed consent forms for procedures and treatments specified by hospital policy, or by federal or state law if applicable, as requiring written patient consent;

6. All practitioners' orders, nursing notes, reports of treatment, medication records, radiology, and laboratory reports, and vital signs and other information necessary to monitor the patient's condition;

7. Discharge summary with outcome of hospitalization, disposition of case and plan for follow-up care; and

8. Final diagnosis with completion of medical records within thirty (30) days following discharge.

(l) Electronic and computer-generated records and signature entries are acceptable.

(6) Pharmaceutical Services.

(a) The hospital must have pharmaceutical services that meet the needs of the patients and are in accordance with the Tennessee Board of Pharmacy statutes and regulations. The medical staff is responsible for developing policies and procedures that minimize drug errors. This function may be delegated to the hospital's organized pharmaceutical service.

(b) A full-time, part-time or consulting pharmacist must be responsible for developing, supervising and coordinating all the activities of the pharmacy services.

(Rule 1200-08-01-.06, continued)

(c) Current and accurate records must be kept of receipt and disposition of all scheduled drugs.

(d) Adverse drug events, both adverse reactions and medication errors, shall be reported according to established guidelines to the hospital performance improvement/risk management program and as appropriate to physicians, the hospital governing body and regulatory agencies.

(e) Abuses and losses of controlled substances must be reported, in accordance with federal and state laws, to the individual responsible for the pharmaceutical service, and to the chief executive officer, as appropriate.

(f) Current reference materials relating to drug interactions and information of drug therapy, side effects, toxicology, dosage, indications for use, and routes of administration must be available to the professional staff in the pharmacy and in areas where medication is administered.

(g) Any unused portions of prescriptions shall be either turned over to the patient only on a written authorization including directions by the physician, or returned to the pharmacy for proper disposition by the pharmacist.

(h) Whenever patients bring drugs into an institution, such drugs shall not be administered unless they can be identified and ordered to be given by a physician.

(7) Radiologic Services.

(a) The hospital must maintain, or have available, diagnostic radiologic services according to the needs of the patients. If therapeutic services are also provided, they, as well as the diagnostic services, must meet professionally approved standards for safety and personnel qualifications.

(b) The radiologic services must be free from hazards for patients and personnel.

(c) Patients, employees and the general public shall be provided protection from radiation in accordance with "State Regulations for Protection Against Radiation". All radiation producing equipment shall be registered and all radioactive material shall be licensed by the Division of Radiological Health of the Tennessee Department of Environment and Conservation.

(d) Periodic inspections of equipment must be made and hazards identified must be promptly corrected.

(e) Radiologic services must be provided only on the order of practitioners with clinical privileges or of other practitioners authorized by the medical staff and the governing body to order the services.

(f) X-ray personnel shall be qualified by education, training and experience for the type of service rendered.

(g) All x-ray equipment must be registered with the Tennessee Department of Environment and Conservation, Division of Radiological Health.

(h) X-rays shall be retained for four (4) years and may be retired thereafter provided that a signed interpretation by a radiologist is maintained in the patient's record under T.C.A. § 68-11-305.

(Rule 1200-08-01-.06, continued)

(i) Patients must not be left unattended in pre and post radiology areas.

(8) Laboratory Services.

(a) The hospital must maintain, or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of its patients. The hospital must ensure that all laboratory services provided to its patients are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act. All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(b) Emergency laboratory services must be available 24 hours a day.

(c) A written description of services provided must be available to the medical staff.

(d) The laboratory must make provision for proper receipt and reporting of tissue specimens.

(e) The medical staff and a pathologist must determine which tissue specimens require a macroscopic (gross) examination and which require both macroscopic and microscopic examination.

(f) Laboratory services must be provided in keeping with services rendered by the hospital. This shall include suitable arrangements for blood and plasma at all times. Written policies and procedures shall be developed in concert with the Standards of American Association of Blood Banks. Documentation and record keeping shall be maintained for tracking and performance monitoring.

(9) Food and Dietetic Services.

(a) The hospital must have organized dietary services that are directed and staffed by adequate qualified personnel. A hospital may contract with an outside food management company if the company has a dietitian who serves the hospital on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section and provides for constant liaison with the hospital medical staff for recommendations on dietetic policies affecting patient treatment. If an outside contract is utilized for management of its dietary services, the hospital shall designate a full-time employee to be responsible for the overall management of the services.

~~(b) The hospital must designate a person to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:~~

~~1. A dietitian; or~~

~~2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or~~

~~3. A graduate of a state-approved course that provided ninety (90) or more hours of classroom instruction in food service supervision and has experience as a food service supervisor in a health care institution with consultation from a qualified dietitian.~~

(Rule 1200-08-01-.06, continued)

(b) The hospital must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with the responsibility for the daily management of the dietary services. The food and dietetic services director shall be:

1. A qualified dietician; or,

2. A graduate of dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,

3. An individual who has successfully completed in-person or online coursework that provided ninety (90) or more hours of classroom instruction in food service supervision. If the course has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by the course requirement; or,

4. An individual who is a certified dietary manager (CDM), or certified food protection professional (CFPP); or,

5. A current or former member of the U.S. military who has graduated from an approved military dietary manager training program.

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis who is responsible for the development and implementation of a nutrition care process to meet the needs of patients for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the patient and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) There must be sufficient administrative and technical personnel competent in their respective duties.

(e) Menus must meet the needs of the patients.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patients.

2. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioners or practitioners responsible for the care of the patients.

3. A current therapeutic diet manual approved by the dietitian and medical staff must be readily available to all medical, nursing, and food service personnel.

(f) Education programs, including orientation, on-the-job training, inservice education, and continuing education programs shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in personal hygiene, proper inspection, handling, preparation and serving of food and equipment.

(g) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishment shall be provided to patients with special dietary needs.

(Rule 1200-08-01-.06, continued)

(h) All food shall be from sources approved or considered satisfactory by the department and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption. No food which has been processed in a place other than a commercial food processing establishment shall be used.

(i) Food shall be protected from sources of contamination whether in storage or while being prepared, served and/or transported. Perishable foods shall be stored at such temperatures as to prevent spoilage. Potentially hazardous foods shall be maintained at safe temperatures as defined in the current "U.S. Public Health Service Food Service Sanitation Manual".

(j) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

(10) Critical Access Hospital.

(a) Every patient shall be under the care of a physician or under the care of a mid-level practitioner supervised by a physician.

(b) Whenever a patient is admitted to the facility by a mid-level practitioner, the supervising physician shall be notified of that fact, by phone or otherwise, and within 24 hours the supervising physician shall examine the patient or before discharge if discharged within 24 hours, and a plan of care shall be placed in the patient's chart, unless the patient is transferred to a higher level of care within 24 hours.

(c) A physician, a mid-level practitioner or a registered nurse shall be on duty and physically available in the facility when there are inpatients.

(d) A physician on staff shall:

1. Provide medical direction to the facility's health care activities and consultation for non-physician health care providers.

2. In conjunction with the mid-level practitioner staff members, participate in developing, executing, and periodically reviewing the facility's written policies and the services provided to patients.

3. Review and sign the records of each patient admitted and treated by a practitioner no later than fifteen (15) days after the patient's discharge from the facility.

4. Provide health care services to the patients in the facility, whenever needed and requested.

5. Prepare guidelines for the medical management of health problems, including conditions requiring medical consultation and/or patient referral.

6. At intervals no more than two (2) weeks apart, be physically present in the facility for a sufficient time to provide medical direction, medical care services, and staff consultation as required.

(Rule 1200-08-01-.06, continued)

7. When not physically present in the facility, either be available through direct telecommunication for consultation and assistance with medical emergencies and patient referral, or ensure that another physician is available for this purpose.

8. The physical site visit for a given two week period is not required if, during that period, no inpatients have been treated in the facility.

(e) A mid-level practitioner on staff shall:

1. Participate in the development, execution, and periodic review of the guidelines and written policies governing treatment in the facility.

2. Participate with a physician in a review of each patient's health records.

3. Provide health care services to patients according to the facility's policies.

4. Arrange for or refer patients to needed services that are not provided at the facility.

5. Assure that adequate patient health records are maintained and transferred as necessary when a patient is referred.

(f) The Critical Access Hospital, at a minimum, shall provide basic laboratory services essential to the immediate diagnosis and treatment of patients, including:

1. Chemical examinations of urine stick or tablet methods, or both (including urine ketoses);

2. Microscopic examinations of urine sediment;

3. Hemoglobin or hematocrit;

4. Blood sugar;

5. Gram stain;

6. Examination of stool specimens for occult blood;

7. Pregnancy test;

8. Primary culturing for transmittal to a CLIA certified laboratory;

9. Sediment rate; and,

10. CBC.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 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. Amendment filed December 2, 2003; effective February 15, 2004. Amendment filed May 24, 2004; effective August 7, 2004. Amendment filed September 6, 2005; effective November 20, 2005. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendment filed March 18, 2010; effective June 16, 2010.*

1200-08-01-.07 OPTIONAL HOSPITAL SERVICES.

(1) Surgical Services.

(Rule 1200-08-02-.01, continued)

(69) Speech Pathologist. A person currently licensed as such by the Tennessee Board of Communications Disorders and Sciences.

(70) State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(71) Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(72) Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(73) Toddler. A child who is sixteen (16) months through thirty (30) months of age.

(74) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the child.

(75) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed July 3, 1984; effective August 1, 1984. Repeal and new rule filed May 22, 1986; effective June 21, 1986. Amendment filed April 1, 1992; effective May 16, 1992. Amendment filed January 6, 1995; effective March 22, 1995. Repeal filed March 18, 2000; effective May 30, 2000. New rule filed June 13, 2002; effective August 27, 2002. Amendment filed May 16, 2006; effective July 30, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-02-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or state, county or local government unit, or division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any Prescribed Child Care Center (PCCC) without having a license. A license shall be issued only to the applicant named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the PCCC.~~

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(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license, with the exception of the U.S. Government, the State of Tennessee or local government, shall pay an annual license fee in the amount of one

(Rule 1200-08-02-.02, continued)

thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. No child shall be admitted to the PCCC until a license has been issued. Applicants shall not hold themselves out to the public as being a PCCC until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by T.C.A. §68-11-206(a)(1), or as later amended, and of all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the prescribed child care center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of a PCCC has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the PCCC operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the PCCC is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partners or general partner, if the facility is owned by a limited partnership;

6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are cancelled;

(Rule 1200-08-02-.02, continued)

7. The consolidation of a corporate facility owner with one or more corporations; or,

8. Transfer between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each prescribed child care center shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure; and

2. the license fee provided in rule 1200-08-02-.02 (2)(b).

(Rule 1200-08-02-.02, continued)

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

(5) All PCCCs may maintain certification as a Community Health Clinic (see Chapter 1200-13-02, Tennessee Department of Health) and as a Comprehensive Outpatient Rehabilitation Facility (see 42 U.S.C. 1395x(cc) of the Social Security Act and Subpart B of 42 Code of Federal Regulations [CFR] Part 485).

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, 68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed July 3, 1984; effective August 1, 1984. Repeal and new rule filed May, 22, 1986; effective July 21, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 1, 1992; effective May 16, 1992. Amendment filed November 3, 1992; effective December 18, 1992. Amendment filed March 7, 1994; effective May 21, 1994. Amendment filed December 30, 1994; effective March 18, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal filed March 18, 2000; effective May 30, 2000. New rule filed June 13, 2002; effective August 27, 2002. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendments filed September 24, 2009; effective December 23, 2009.*

1200-08-02-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal or state statues;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the PCCC;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the children in the PCCC; and

(e) Failure to renew license.

(2) The board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the children in the PCCC;

(c) The conduct of the PCCC in taking all feasible steps or procedures necessary or appropriate to comply or correct the violations; and

(d) Any prior violations by the PCCC of statutes, regulations or orders of the board.

(3) When a PCCC is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of the receipt of the deficiencies, the PCCC must return a plan of correction indicating the following:

(a) How the deficiency will be corrected;

(Rule 1200-08-02-.05, continued)

(i) A pre-enrollment visit to the center by the parent shall be documented.

(j) Upon enrollment of a child, the parent shall receive a summary of the Department's licensing requirements and receipt of the summary shall be documented by the parent's signature.

(k) Each PCCC shall develop a plan for regular and ongoing communication with parents. This plan shall include communication concerning curriculum, changes in personnel, or planned changes affecting children's routine care. Documentation shall be maintained for the most recent quarter.

(l) During normal operating hours, parents shall be permitted access to their children, and ready access to all areas of the PCCC shall be granted Department representatives and inspection authorities (i.e., fire safety, sanitation, and health).

(m) Parents shall be informed in advance of the child's removal from the premises except in cases of emergencies or pursuant to investigative procedures conducted pursuant to the child abuse laws.

(n) Children shall not be in care for more than sixteen hours in a twenty-four hour period except in special circumstances (e.g., acute illness of or injury to parents, natural disaster, unusual work hours). Individual plans for extended care shall be maintained, with documentation, signed by parent and administrator, retained on file.

(o) Part-time children shall be counted in the ratio and group and shall have required records on file before they are cared for.

(p) Any infant or child not meeting the criteria set out in 1200-08-02-.05(2)(a)-(c) shall be discharged from the PCCC.

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-.06 BASIC SERVICES.

(1) Nursing Services.

(a) The PCCC must have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse. A registered nurse must be on the premises at all times during business hours.

(b) The PCCC must have a well-organized service with a plan of administrative authority and delineation of responsibilities for child care. The nursing director must be a licensed registered nurse who is responsible for the operation of the nursing service, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for the PCCC.

(c) The nursing service must have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care to all children as needed. There must be supervisory and staff personnel for each department or unit of the PCCC to ensure, when needed, the immediate availability of a registered nurse.

(d) There must be a procedure to ensure that nursing personnel for whom licensure is required have valid and current licenses.

(Rule 1200-08-02-.06, continued)

(e) A registered nurse must assess, supervise and evaluate the nursing care for each child.

(f) The PCCC must ensure that an appropriate individualized plan of care is prepared for each child.

(g) A registered nurse must assign the nursing care of each child to other nursing personnel in accordance with the child's needs and the specialized qualifications and competence of the nursing staff available. All nursing personnel shall have specialized training and a program in-service and continuing education commensurate with the duties and responsibilities of the individual. All training shall be documented for each individual so employed, along with documentation of annual competency skills. Orientation of any new personnel must be conducted within the first two weeks of employment.

(h) Non-employee licensed nurses who are working in the PCCC must adhere to the policies and procedures of the facility. The nursing director must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service. Annual competency and skill documentation must be demonstrated on these individuals just as on employees, if they perform clinical activities.

(i) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements.

(j) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the child. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they must be:

1. Accepted only by personnel that are authorized to do so by policies and procedures, consistent with federal and state law; and

2. Signed or initialed by the prescribing practitioner according to policy.

(k) Intravenous medications must be administrated in accordance with state law and approved policies and procedures.

(l) There must be a procedure for reporting adverse drug reactions and errors in administration of drugs.

(2) Physician Services.

(a) Policies and procedures concerning services provided by the PCCC shall be available to the children's primary care physicians as requested.

(b) If children with mental, physical or other impairments or with a medical disorder are enrolled, and special care is needed, a physician's statement shall identify the condition and give the appropriate care professional special instructions for the child's care.

(c) Children shall be aided in receiving dental care as deemed necessary.

(d) Consultation with a physician shall occur at least annually to review medical care provided within the PCCC and shall include, but not be limited to:

(Rule 1200-08-02-.06, continued)

1. Evaluate the delivery of emergency and medical care when the child's primary physician or his/her designated alternative is unavailable;

2. Review reports of accidents or unusual incidents occurring on the premises, identifying hazards to health and safety and recommending corrective action to the administrator;

3. Review performance improvement, infection control and safety action plans for appropriate actions;

4. Monitor the health status of facility personnel to ensure that no health conditions exist which would adversely affect children; and

5. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

(3) Educational Services

(a) The PCCC will provide parent(s) education services by including them in care related conferences and teaching them how to perform necessary therapies and how to meet the developmental and psychological needs of their child at home.

(b) Monthly educational development programs shall be conducted and documented. These programs shall be provided to:

1. Develop collaborative relationships between health professionals and parent(s).

2. Increase understanding and coping with the effects of childhood illness, and shall cover a variety of topics including:

(i) issues of death and dying;

(ii) awareness of services available;

(iii) fostering of advocacy skills;

(iv) impact of illness on child development; and

(v) parenting an ill child.

3. Develop case management skills to assist the family in setting priorities and planning and implementing the child's care at home.

4. Develop a comprehensive Plan of Care to include the medical, nutritional, developmental and psychosocial needs of medically/technologically dependent children, including training in the implementation of new technology.

5. Prepare for management of emergency medical situations.

(c) A comprehensive orientation to acquaint the parent(s) with the philosophy and services of the PCCC shall be provided at the time of the child's placement in the PCCC.

(d) Activities shall be used for the children based on developmentally appropriate educational practices.

(Rule 1200-08-02-.06, continued)

(e) To the extent that children are physically able to participate, a daily program shall provide opportunities for learning, self-expression, and participation in a variety of creative activities such as art, music, literature, dramatic play, science and health.

(f) Indoor physical activities, requiring children to use both large and small muscles, shall be provided for children of each age group who are physically able to participate.

(g) Activities for infants/toddlers shall provide experience for the development of language, gross motor, fine motor, social/personal, cognitive, and self-help skills. Examples of such activities include music, dramatic play, story-time, free activity periods, outdoor play, and the opportunity to explore many materials, situations, and roles.

(h) Because of the importance of language development and communication skills to infants and toddlers, they shall be talked to, listened to, read to and sung to, in addition to other language experience activities, including but not limited to, finger plays, patty cake, and flannel board activities.

(4) Nutritional Services

(a) The PCCC must have an organized dietary service that is directed and staffed by adequate qualified personnel. A facility may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this paragraph and provides for consultant liaison with the facility staff for recommendations on dietetic policies affecting the children's treatment. If an outside contract is utilized for management of its dietary services, the facility shall designate a full-time employee to be responsible for the overall management of the services.

(b) The PCCC must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:

1. A qualified dietitian; or,

2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,

~~3. A graduate of a state-approved course that provided ninety (90) or more hours of classroom instruction in food service supervision and who has experience as a food service supervisor in a health care institution with consultation from a qualified dietitian.~~

3. An individual who has sucessfully completed in-person or online coursework that provided ninety (90) or more hours of classroom instruction in food service supervision. If the course has not been completed, this person shall be enrolled in a course and making satisafactory progress for completion within the time limit specified by the course requirement; or,

4. An individual who is a certified dietary manager (CDM), or ceritfied food protection professional (CFPP); or,

5. A current or former member of the U.S. military who has graduated from an approved miliatry dietary manager training program.

(Rule 1200-08-02-.06, continued)

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis, who is responsible for the development and implementation of a nutrition care process to meet the needs of health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the child and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) Menus must meet the needs of the children.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the children and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the children.

4. A current therapeutic diet manual approved by the dietitian and nursing director must be readily available to all nursing and food service personnel.

(e) Educational programs, including orientation, on-the-job training, inservice education, and continuing education, shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(f) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishment shall be provided to children with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(g) Menus shall be prepared at least one week in advance. A dietitian shall be consulted to help write and plan the menus. If any change in the actual food served is necessary, the change shall be made on the menu to designate the foods actually served to the children. Menus of food served shall be kept on file for a thirty (30) day period.

(h) The dietician or designee shall have a conference, dated on the medical record with each child and/or family within two (2) weeks of admission to discuss the diet plan indicated by the physician. The child's dietary preferences shall be recorded and utilized in planning his/her daily menu.

(i) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage or while being prepared and served and/or transported through hallways.

(j) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(k) Food shall not be forced on or withheld from children. Food shall not be used as a reward, nor shall food be used or withheld as punishment.

(Rule 1200-08-02-.06, continued)

(l) Specific feeding instructions given by parents shall be in writing. If staff feel instructions to be inappropriate or in conflict with established policy or the therapeutic diet prescribed by the practitioner, staff shall initiate discussion with the parent to resolve the conflict.

(m) New foods shall be introduced to infants and toddlers; foods shall be introduced one at a time over a five-to-seven day period with parental approval.

(n) The feeding schedule for infants shall be in accordance with the child's need rather than according to the hour. (Infants fed breast milk may require more frequent feedings than formula-fed babies.)

(o) Parents and caregivers shall work together when weaning an infant to insure consistency in the weaning process. Weaning shall be delayed until after an infant adjusts to group care.

(p) Children shall not be permitted to carry a bottle with them throughout the day.

(q) All formulas and food brought from home shall be labeled with child's name. Milk shall be placed immediately in the refrigerator. Once milk has been warmed, it shall not be rewarmed or returned to the refrigerator. For optimum digestion, formula is to be served at body temperature.

(r) Frozen breast milk shall be dated when expressed. Bottled breast milk shall not be heated in a microwave oven. To prevent scalding, extreme caution shall be taken when a microwave oven is used to heat food.

(s) Previously opened baby food jars shall be not accepted in the PCCC.

(t) Infants shall be held while being fed if they are unable to sit in a high chair, an infant seat, or at the table. Bottles shall not be propped. A child shall not be given a bottle while lying flat.

(u) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon. Children shall not be left unattended while eating.

(v) Dishwashing machines shall be used according to manufacturer specifications.

(w) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(x) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Services Sanitation Manual":

(y) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(z) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45^0F. Freezers shall be kept at a temperature not to exceed 0^0 F.

(aa) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments", and the current

(Rule 1200-08-02-.06, continued)

"U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

(5) Pharmaceutical Services.

(a) The PCCC shall have pharmaceutical services that meet the needs of the children and are in accordance with the Tennessee Board of Pharmacy statutes and rules. The administrator is responsible for developing policies and procedures that minimize drug errors.

(b) All internal and external medications and preparations intended for human use shall be stored separately. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized persons. Poisons or external medications shall not be stored in the same compartment and shall be labeled as such.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every PCCC shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the child's medical chart each time a Schedule II drug is given. The notation shall include the name of each child receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the child. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be maintained for each child. Each dose shall be properly recorded in the medical record after it has been administered.

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or nursing personnel or other licensed health professionals acting within the scope of their licenses.

(Rule 1200-08-02-.06, continued)

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the child, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(n) Any unused portions of prescriptions shall be turned over to the parent(s) or only on discharge. A notation of drugs released shall be entered into the medical record. All unused prescriptions not taken by the parent and left at the PCCC must be destroyed on the premises and recorded by a pharmacist. Such record shall be kept in the PCCC.

(6) Rehabilitation Services.

(a) Physical therapy, occupational therapy and speech therapy shall be provided directly or through contractual agreement by individuals who meet the qualifications specified by PCCC policy and consistent with state law.

(b) A licensed physical therapist shall be in charge of the physical therapy service and a licensed occupational therapist shall be in charge of the occupational therapy service.

(c) Direct contact shall exist between the child and the therapist for those children that require treatment ordered by a physician.

(d) If ordered by a physician, the physical therapist and the occupational therapist shall provide treatment and training designed to preserve and improve abilities for independent functions, such as: range of motion, strength, tolerance, coordination and activities of daily living.

(e) Therapy services shall be coordinated with the nursing service and made a part of the child's treatment plan.

(f) Sufficient staff shall be made available to provide the service ordered.

(7) Psychologist/Social Work Services.

(a) Social services and psychological services must be available to the children, the child's family and other persons significant to the child, in order to facilitate adjustment of these individuals to the impact of the child's illness and to promote maximum benefits from the health care services provided.

(b) Social work services shall include psychosocial assessment, counseling, coordination of discharge planning, community liaison services, financial assistance and consultation.

(c) Psychological services shall include psychoanalysis, psychotherapy, psychological testing, psychoeducational evaluation therapy remediation and consultation.

(d) A child's social history shall be obtained within two (2) weeks of admission and shall be appropriately maintained.

(e) Social work services shall be provided by a qualified social worker.

(f) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.

(8) Respiratory Care Services (Optional).

(Rule 1200-08-02-.06, continued)

(a) If the PCCC provides respiratory care services, the PCCC must meet the needs of the patients in accordance with acceptable standards of practice.

(b) The organization of the respiratory care services must be appropriate to the scope and complexity of the services offered.

(c) There must be adequate numbers of licensed respiratory therapists, respiratory technicians, and other personnel to provide the ordered services.

(d) Services must be delivered in accordance with physician directives.

(e) Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures must be designated in writing.

(9) Infection Control.

(a) The PCCC must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The administrator shall assure that an infection control program, including members of the multidisciplinary staff such as nursing and administrative staff, develop guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the program shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4 Written procedures concerning food handling, laundry practices, disposal of environmental and human wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(c) The administrator must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(d) Parents of every child enrolled shall be notified immediately if one of the following communicable diseases has been introduced into the child care center: hepatitis A, foodborne outbreaks (food poisoning) salmonella, shigella, measles, mumps, rubella,

(Rule 1200-08-02-.06, continued)

pertussis, polio, haemophilus influenza type B, meningococcal meningitis. The PCCC shall report the occurrence of the above diseases to the local health department.

(e) Impetigo and diagnosed strep shall be treated appropriately for 24 hours prior to readmission to the center. Children having scabies or lice shall have proof of treatment to be readmitted. The PCCC shall provide care and/or isolation for a child with a contagious condition only if written instructions of a licensed physician or certified health care provider are obtained first.

(f) The PCCC shall develop policies and procedures for testing a child's blood for the presence of the hepatitis B virus and the HIV virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a child's blood or other body fluid. The testing shall be performed at no charge to the child and the test results shall be confidential.

(g) The facility and its employees shall adopt and utilize standard or universal precautions of the Centers for Disease Control (CDC) for preventing transmission of infections, HIV, and communicable diseases.

(h) All PCCCs shall adopt appropriate policies regarding the testing of children and staff for HIV and any other identified causative agent of acquired immune deficiency syndrome.

(i) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(j) Space and facilities for housekeeping equipment and supplies shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from child care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(10) Performance Improvement.

(a) The PCCC must ensure that there is an effective, facility-wide performance improvement program to evaluate child care and performance of the organization.

(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:

1. All organized services related to child care, including services furnished by a contractor, are evaluated;

2. Nosocomial infections and medication therapy are evaluated; and,

3. All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment.

(c) The PCCC must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its children.

(d) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.

(Rule 1200-08-02-.06, continued)

(e) Performance improvement program records shall be disclosable to the Department to demonstrate compliance with this section.

(f) Good faith attempts by the performance improvement program committee to identify and correct deficiencies will not be used as a basis for sanctions.

(11) Transportation Services (If Provided)

(a) If a PCCC provides transportation, its management shall recognize its full responsibility for the child between home and facility and on field trips. On field trips or when transporting children between home and the facility, staff shall maintain an accurate list of children being transported and shall take roll frequently. The driver or accompanying staff member shall assure that every child is received by a parent or other designated person. The owner of the vehicle shall carry adequate liability insurance.

(b) Parents shall be notified of each field trip and notification documented.

(c) Vehicles used to transport children shall be maintained in safe working condition. Regular scheduled inspections shall be documented. Documentation of regular maintenance shall be kept on file in the facility. (See Appendix A)

(d) The driver shall comply with the health requirements as specified in Appendix C of these Rules.

(e) On field trips off premises, at least two (2) adults shall be in the vehicle, in addition to the driver.

(f) Children shall always be attended by a licensed nurse while in a vehicle.

(g) The number of infants and other non-ambulatory children transported by one licensed nurse shall be limited to six. A second licensed nurse shall be in the vehicle supervising the children when seven or more children are being transported.

(h) Transportation provided by the PCCC or under PCCC auspices shall comply with state law.

(i) All children and the driver shall be secured in individual passenger restraint devices at all times during the transportation by the PCCC or under PCCC auspices. Exception: Children four (4) years of age and older transported by a school bus or public transportation are not required to be restrained because these vehicles are not required to be equipped with restraint devices.

(j) No child shall be allowed to ride on the floor of a vehicle, and no child shall be placed with another child in the same restraint device.

(k) Drivers of any vehicle used to transport children shall have a proper license and endorsement required for the transportation of the number of passengers transported and the vehicle size and weight as required in Chapter 50 of Title 55 of the Tennessee Code Annotated.

(l) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced by all staff responsible for transporting children on a regular basis.

(m) Storage of firearms is prohibited in vehicles used to transport children.

(Rule 1200-08-02-.06, continued)

(n) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.

(o) Children shall not spend more than ninety (90) minutes traveling one way.

(12) Recreational Services.

(a) The PCCC shall provide opportunities for recreational activities appropriate to the needs, interests, and ages of the children being served.

(b) Equipment needs for Children:

1. General

(i) All indoor and outdoor equipment shall be well made and safe. There shall be no dangerous angles, no sharp edges, splinters, or nails sticking out, no open S-hooks or pinch points within children's reach.

(ii) Damaged equipment shall be repaired or removed from the room or playground immediately.

(iii) Equipment shall be kept clean by washing frequently with soap and water.

(iv) There shall be developmentally appropriate equipment and furnishings for each age group in attendance.

(v) Material and equipment shall be provided to meet the needs of all the children enrolled.

(vi) Individual lockers, separate hooks and shelves or other containers (placed at children's reaching level for mobile children) shall be provided for each child's belongings.

2. Indoor Play Equipment

(i) Pieces of equipment, such as television sets, bookcases and appliances, shall be secured or supported so that they will not fall or tip over.

(ii) Indoor equipment, materials, and toys shall be available to:

(I) Meet active and quiet play needs of all children enrolled;

(II) Provide a variety of developmentally appropriate activities so that each child has at least three choices during play time; and

(III) Adequately provide for all the activities required in other sections of this rule.

(iii) Toys, educational and play materials shall be organized and displayed within children's reach so that, if physically able, they can select and return items independently.

(iv) Teaching aids that are small or that have small parts that can be inhaled or swallowed shall be inaccessible to infants and toddlers.

(Rule 1200-08-02-.06, continued)

3. Outdoor Play Equipment (Optional)

(i) All outdoor play equipment shall be sufficient in amount and variety so that children can take part in many kinds of play each day.

(ii) The Consumer Products Safety Commission's "Handbook on Public Playground Safety" or similar authority shall be used for guidance on playground construction and maintenance.

(iii) All outdoor play equipment shall be placed to avoid injury. Fall zones shall extend at least four (4) feet and preferably six (6) feet away from the perimeter of equipment and away from retainer structures, fences, and other equipment and out of children's traffic paths.

(iv) Resilient surfacing material shall cover fall zones at a recognized acceptable depth. (See Appendix B)

(v) Supports for climbers, swings, and other heavy equipment that could cause injury if toppled shall be securely anchored to the ground, even if the equipment is designed to be portable.

(13) Environmental Services.

(a) Environmental services shall be provided to assure the clean and sanitary condition of the PCCC and to provide a safe and hygienic environment for children and staff. Cleaning shall be accomplished in accordance with the infection control rules and regulations herein and PCCC policy; and

(b) There shall be verification of regular continuing education and competency for basic housekeeping principles.

(c) Each facility shall have routine cleaning of articles and surfaces such as furniture, floors, walls, ceilings, supplies, exhaust, grills and lighting fixtures.

(d) Sufficient and proper cleaning supplies and equipment shall be available to housekeeping staff. Cleaning supplies, toxic substances and equipment shall be secured at all times to prevent access by children. Toxic substances shall not be left unattended when not secured.

(e) A closet for janitorial supplies shall be provided.

(f) Storage for bulk supplies and equipment shall be located away from child care areas. Storage shall not be allowed in the outmost shipping carton.

(g) The building shall be kept in good repair, clean, sanitary and safe at all times.

(14) Laundry Services.

(a) Laundry services shall:

1. Provide space for storage of clean linen within nursing units and for bulk storage within clean areas of the PCCC; and

2. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(Rule 1200-08-02-.06, continued)

(b) The PCCC shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the PCCC or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules and procedures.

Authority: *§§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-21, and 68-11-222.*
Administrative History: *Original rule filed June 13, 2002; effective August 27, 2002.*

(Rule 1200-08-06-.01, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-234, 68-11-1802, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed September 21, 2005; effective December 5, 2005. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the nursing home.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form provided by the department along with a copy of the Certificate of Need (CON) issued by the Tennessee Health Services and Development Agency (HSDA). Any condition placed on the CON will also be placed on the license.

(b) Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the nursing home until a license has been issued. Applicants shall not hold themselves out to the public as being a nursing home until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(e) The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective

(Rule 1200-08-06-.02, continued)

action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purpose of licensing, the licensee of a nursing home has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the nursing home's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the nursing home is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility.

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;

6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7 The consolidation of a corporate facility owner with one or more corporations; or,

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the

(Rule 1200-08-06-.02, continued)

ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(4) Each nursing home, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of nursing home beds, as follows:

(a)	Less than 25 beds	$ 800.00
(b)	25 to 49 beds, inclusive	$ 1,000.00
(c)	50 to 74 beds, inclusive	$ 1,200.00
(d)	75 to 99 beds, inclusive	$ 1,400.00
(e)	100 to 124 beds, inclusive	$ 1,600.00
(f)	125 to 149 beds, inclusive	$ 1,800.00
(g)	150 to 174 beds, inclusive	$ 2,000.00
(h)	175 to 199 beds, inclusive	$ 2,200.00

For nursing homes of two hundred (200) beds or more the fee shall be two thousand four hundred dollars ($2,400.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable. When additional beds are licensed, the licensing procedures for new facilities must be followed and the difference between the fee previously paid and the fee for the new bed capacity, if any, must be paid.

(5) Renewal.

(a) In order to renew a license, each nursing home shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

(Rule 1200-08-06-.02, continued)

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-06-.02(4); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rules filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed December 30, 1986; effective February 13, 1987. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed September 21, 2005; effective December 5, 2005. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendments filed September 24, 2009; effective December 23, 2009.*

1200-08-06-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal statutes or rules;

(b) Violation of state statutes or the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the nursing home;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the residents of the nursing home; and,

(e) Failure to renew the license.

(2) The board may consider all factors which it deems relevant, including but not limited to the following, when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the residents in the facility;

(c) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and,

(d) Any prior violations by the facility of statutes, rules or orders of the commissioner or the board.

(3) The Board shall have the authority to place a facility on probation. To be considered for probation, a facility must have had at least two (2) separate substantiated complaint investigation surveys within six (6) months, where each survey had at least one deficiency cited at the level of substandard quality of care or immediate jeopardy, as those terms are defined at 42 CFR 488.301. None of the surveys can have been initiated by an unusual event or incident self reported by the facility.

(Rule 1200-08-06-.05, continued)

resolve the dispute and shall not transfer the resident until such counseling has been provided. No involuntary transfer or discharge shall be made until the nursing home has first informed the department and the area long-term care ombudsman. Unless a disaster occurs on the premises or the attending physician orders the transfer as a medical emergency (due to the resident's immediate need for a higher level of care) no involuntary transfer or discharge shall be made until five (5) business days after these agencies have been notified, unless they each earlier declare that they have no intention of intervening.

(15) Except when the Board has revoked or suspended the license, a nursing home which intends to close, cease doing business, or reduce its licensed bed capacity by ten percent (10%) or more shall notify both the department and the area long-term care ombudsman at the earliest moment of the decision, but not later than thirty (30) days before the action is to be implemented. The facility shall establish a protocol, subject to the department's approval, for the transfer or discharge of the residents. Should the nursing home violate the provisions of this paragraph, the department shall request the Attorney General of the State of Tennessee to intervene to protect the residents, as is provided by T.C.A. § 68-11-213(a).

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-257, and 71-6-121.* ***Administrative History:*** *Original rule filed March 27; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed April 17, 2007; effective July 1, 2007.*

1200-08-06-.06 BASIC SERVICES.

(1) Performance Improvement.

(a) The nursing home must ensure that there is an effective, facility-wide performance improvement program to evaluate resident care and performance of the organization.

(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:

1. All organized services related to resident care, including services furnished by a contractor, are evaluated;

2. Nosocomial infections and medication therapy are evaluated;

3. All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment; and

4. The facility shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.

(c) The nursing home must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its residents.

(d) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.

(e) Performance improvement program records are not disclosable, except when such disclosure is required to demonstrate compliance with this section.

(Rule 1200-08-06-.06, continued)

(f) Good faith attempts by the performance improvement program committee to identify and correct deficiencies will not be used as a basis for sanctions.

(2) Physician Services.

(a) Policies and procedures concerning services provided by the nursing home shall be available for the admitting physicians.

(b) Residents shall be aided in receiving dental care as deemed necessary.

(c) Each nursing home shall retain by written agreement a physician to serve as a Medical Director.

(d) The Medical Director shall be responsible for the medical care in the nursing home. The Medical Director shall:

1. Delineate the responsibilities of and communicate with attending physicians to ensure that each resident receives medical care;

2. Ensure the delivery of emergency and medical care when the resident's attending physician or his/her designated alternate is unavailable;

3. Review reports of all accidents or unusual incidents occurring on the premises, identifying hazards to health and safety and recommending corrective action to the administrator;

4. Make periodic visits to the nursing home to evaluate the existing conditions and make recommendations for improvements;

5. Review and take appropriate action on reports from the Director of Nursing regarding significant clinical developments;

6. Monitor the health status of nursing home personnel to ensure that no health conditions exist which would adversely affect residents; and,

7. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.

(3) Infection Control.

(a) The nursing home must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active program for the prevention, control, and investigation of infections and communicable diseases.

(b) The physical environment shall be maintained in such a manner to assure the safety and well being of the residents.

1. Any condition on the nursing home site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.

2. Cats, dogs or other animals shall not be allowed in any part of the facility except for specially trained animals for the handicapped and except as addressed by facility policy for pet therapy programs. The facility shall designate in its policies

(Rule 1200-08-06-.06, continued)

and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

3. Telephones shall be readily accessible and at least one (1) shall be equipped with sound amplification and shall be accessible to wheelchair residents.

4. Equipment and supplies for physical examination and emergency treatment of residents shall be available.

5. A bed complete with mattress and pillow shall be provided. In addition, resident units shall be provided with at least one chair, a bedside table, an over bed tray and adequate storage space for toilet articles, clothing and personal belongings.

6. Individual wash cloths, towels and bed linens must be provided for each resident. Linen shall not be interchanged from resident to resident until it has been properly laundered.

7. Bath basin water service, emesis basin, bedpan and urinal shall be individually provided.

8. Water pitchers, glasses, thermometers, emesis basins, douche apparatus, enema apparatus, urinals, mouthwash cups, bedpans and similar items of equipment coming into intimate contact with residents shall be disinfected or sterilized after each use unless individual equipment for each is provided and then sterilized or disinfected between residents and as often as necessary to maintain them in a clean and sanitary condition. Single use, resident disposable items are acceptable but shall not be reused.

9. The facility shall have written policies and procedures governing care of residents during the failure of the air conditioning, heating or ventilation system, including plans for hypothermia and hyperthermia. When the temperature of any resident area falls below 65° F. or exceeds 85° F., or is reasonably expected to do so, the facility shall be alerted to the potential danger, and the department shall be notified.

(c) The administrator shall assure that an infection control program including members of the medical staff, nursing staff and administrative staff develop guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the program shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in the facility;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

(Rule 1200-08-06-.06, continued)

6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of resident care equipment and supplies; and,

7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.

(d) The administrator, the medical staff and director of nursing services must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(e) The facility shall develop policies and procedures for testing a resident's blood for the presence of the hepatitis B virus and the HIV virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a resident's blood or other body fluid. The testing shall be performed at no charge to the resident, and the test results shall be confidential.

(f) The facility and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:

1. Use of alcohol-based hand rubs or use of non-antimicrobial or antimicrobial soap and water before and after each patient contact if hands are not visibly soiled;

2. Use of gloves during each patient contact with blood or where other potentially infectious materials, mucous membranes, and non-intact skin could occur and gloves changed before and after each patient contact;

3. Use of either a non-antimicrobial soap and water or an antimicrobial soap and water for visibly soiled hands; and

4. Health care worker education programs which may include:

(i) Types of patient care activities that can result in hand contamination;

(ii) Advantages and disadvantages of various methods used to clean hands;

(iii) Potential risks of health care workers' colonization or infection caused by organisms acquired from patients; and

(iv) Morbidity, mortality, and costs associated with health care associated infections.

(g) All nursing homes shall adopt appropriate policies regarding the testing of residents and staff for HIV and any other identified causative agent of acquired immune deficiency syndrome.

(h) The facility shall document evidence of annual vaccination against influenza for each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of the vaccine. Influenza vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccination for all residents accepting the vaccine shall be completed by November 30 of each year or within ten (10) days of the vaccine

(Rule 1200-08-06-.06, continued)

becoming available. Residents admitted after this date during the flu season and up to February 1, shall as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the resident.

The facility shall document evidence of vaccination against pneumococcal disease for all residents who are 65 years of age or older, in accordance with the recommendation of the Advisory Committee on Immunization Practices of the Centers for Disease Control at the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused offer of the vaccine. The facility shall provide or arrange the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.

(i) The facility shall have an annual influenza vaccination program which shall include at least:

1. The offer of influenza vaccination to all staff and independent practitioners or accept documented evidence of vaccination from another vaccine source or facility;

2. A signed declination statement on record from all who refuse the influenza vaccination for other than medical contraindications;

3. Education of all direct care personnel about the following:

(i) Flu vaccination,

(ii) Non-vaccine control measures, and

(iii) The diagnosis, transmission, and potential impact of influenza;

4. An annual evaluation of the influenza vaccination program and reasons for non-participation;

5. The requirements to complete vaccinations or declination statements are suspended by the Medical Director in the event of a vaccine shortage.

(j) Precautions shall be taken to prevent the contamination of sterile supplies by soiled supplies. Sterile supplies shall be packaged and stored in a manner that protects the sterility of the contents. Decontamination and preparation areas shall be separated.

(k) Space and facilities for housekeeping equipment and supply storage shall be provided in each service area. Storage for bulk supplies and equipment shall be located away from patient care areas. The building shall be kept in good repair, clean, sanitary and safe at all times.

(l) The facility shall appoint a housekeeping supervisor who shall be responsible for:

1. Organizing and coordinating the facility's housekeeping service;

2. Acquiring and storing sufficient housekeeping supplies and equipment for facility maintenance; and,

3. Assuring the clean and sanitary condition of the facility to provide a safe and hygienic environment for residents and staff. Cleaning shall be accomplished in accordance with the infection control rules herein and facility policy.

(Rule 1200-08-06-.06, continued)

(m) Laundry facilities located in the nursing home shall:

1. Be equipped with an area for receiving, processing, storing and distributing clean linen;

2. Be located in an area that does not require transportation for storage of soiled or contaminated linen through food preparation, storage or dining areas;

3. Provide space for storage of clean linen within nursing units and for bulk storage within clean areas of the facility; and,

4. Provide carts, bags or other acceptable containers appropriately marked to identify those used for soiled linen and those used for clean linen to prevent dual utilization of the equipment and cross contamination.

(n) The facility shall name an individual who is responsible for laundry service. This individual shall be responsible for:

1. Establishing a laundry service, either within the nursing home or by contract, that provides the facility with sufficient clean, sanitary linen at all times;

2. Knowing and enforcing infection control rules and regulations for the laundry service;

3. Assuring the collection, packaging, transportation and storage of soiled, contaminated, and clean linen is in accordance with all applicable infection control rules and procedures; and,

4. Assuring that a contract laundry service complies with all applicable infection control rules and procedures.

(4) Nursing Services.

(a) Each nursing home must have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse. Each home shall have a licensed practical nurse or registered nurse on duty at all times and at least two (2) nursing personnel on duty each shift.

(b) The facility must have a well-organized nursing service with a plan of administrative authority and delineation of responsibilities for resident care. The Director of Nursing (DON) must be a licensed registered nurse who has no current disciplinary actions against his/her license. The DON is responsible for the operation of the service, including determining the types and numbers of nursing personnel and staff necessary to provide nursing care for all areas of the facility.

(c) The Director of Nursing shall have the following responsibilities:

1. Develop, maintain and periodically update:

(i) Nursing service objectives and standards of practice;

(ii) Nursing service policy and procedure manuals;

(iii) Written job descriptions for each level of nursing personnel;

(Rule 1200-08-06-.06, continued)

(iv) Methods for coordination of nursing service with other resident services; and,

(v) Mechanisms for monitoring quality of nursing care, including the periodic review of medical records.

2. Participate in selecting prospective residents in terms of the nursing services they need and nursing competencies available.

3. Make daily rounds to see residents.

4. Notify the resident's physician when medically indicated.

5. Review each resident's medications periodically and notify the physician where changes are indicated.

6. Supervise the administration of medications.

7. Supervise assignments of the nursing staff for the direct care of all residents.

8. Plan, develop and conduct monthly in-service education programs for nursing personnel and other employees of the nursing home where indicated. An organized orientation program shall be developed and implemented for all nursing personnel.

9. Supervise and coordinate the feeding of all residents who need assistance.

10. Coordinate the dietary requirements of residents with the staff responsible for the dietary service.

11. Coordinate housekeeping personnel.

12. Assure that discharge planning is initiated in a timely manner.

13. Assure that residents, along with their necessary medical information, are transferred or referred to appropriate facilities, agencies or outpatient services, as needed, for follow-up or ancillary care.

(d) The nursing service must have adequate numbers of licensed registered nurses, licensed practical nurses, and certified nurse aides to provide nursing care to all residents as needed. Nursing homes shall provide a minimum of two (2) hours of direct care to each resident every day including 0.4 hours of licensed nursing personnel time. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the availability of a licensed nurse for bedside care of any resident.

(e) A registered nurse must supervise and evaluate the nursing care for each resident.

(f) The facility must ensure that an appropriate individualized plan of care is prepared for each resident with input from appropriate disciplines, the resident and/or the resident's family or the resident's representative.

(g) A registered nurse must assign the nursing care of each resident to other nursing personnel in accordance with the resident's needs and the specialized qualifications and competence of the nursing staff available.

(Rule 1200-08-06-.06, continued)

(h) Non-employee licensed nurses who are working in the nursing home must adhere to the policies and procedures of the facility. The director of the nursing service must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service.

(i) All drugs, devices and related materials must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements, and in accordance with the approved medical staff policies and procedures.

(j) There must be a facility procedure for reporting adverse drug reactions and errors in administration of drugs.

(k) When non-employees are utilized as sitters or attendants, they shall be under the authority of the nursing service and their duties shall be set forth clearly in written nursing service policies.

(l) Each resident shall be given proper personal attention and care of skin, feet, nails and oral hygiene in addition to the specific professional nursing care as ordered by the resident's physician.

(m) Medications, treatments, and diet shall be carried out as prescribed to safeguard the resident, to minimize discomfort and to attain the physician's objective.

(n) Residents shall have baths or showers at least two (2) times each week, or more often if requested by the resident.

(o) Body position of residents in bed or chair bound shall be changed at least every two (2) hours, day and night, while maintaining good body alignment. Proper skin care shall be provided for bony prominences and weight bearing parts to prevent discomfort and the development of pressure areas, unless contraindicated by physician's orders.

(p) Residents who are incontinent shall have partial baths each time the bed or bed clothing has been wet or soiled. The soiled or wet bed linen and the bed clothing shall be replaced with clean, dry linen and clothing immediately after being soiled.

(q) Residents shall have shampoos, haircuts and shaves as needed, or desired.

(r) Rehabilitation measures such as assisting patients with range of motion, prescribed exercises and bowel and bladder retraining programs shall be carried out according to the individual needs and abilities of the resident.

(s) Residents shall be active and out of bed except when contraindicated by written physician's orders.

(t) Residents shall be encouraged to achieve independence in activities of daily living, self-care, and ambulation as a part of daily care.

(u) Residents shall have clean clothing as needed and shall be kept free from odor.

(v) Residents' weights shall be taken and recorded at least monthly unless contraindicated by a physician's order.

(w) Physical restraints shall be checked every thirty (30) minutes and released every two (2) hours so the resident may be exercised and offered toilet access.

(Rule 1200-08-06-.06, continued)

(x) Restraints may be applied or administered to residents only on the signed order of a physician. The signed physician's order must be for a specified and limited period of time and must document the necessity of the restraint. There shall be no standing orders for restraints.

(y) When a resident's safety or safety of others is in jeopardy, the nurse in charge shall use his/her judgment to use physical restraints if a physician's order cannot be immediately obtained. A written order must be obtained as soon as possible.

(z) Locked restraints are prohibited.

(aa) Assistance with eating shall be given to the resident as needed in order for the resident to receive the diet for good health care.

(bb) Abnormal food intake will be evaluated and recorded.

(cc) A registered nurse may make the actual determination and pronouncement of death under the following circumstances:

1. The deceased was a resident of a nursing home;

2. The death was anticipated, and the attending physician or nursing home medical director has agreed in writing to sign the death certificate. Such agreement by the attending physician or nursing home medical director must be present with the deceased at the place of death;

3. The nurse is licensed by the state; and,

4. The nurse is employed by the nursing home in which the deceased resided.

(5) Medical Records.

(a) The nursing home shall comply with the Tennessee Medical Records Act, T.C.A. §§ 68-11-301, et seq.

(b) The nursing home must maintain a medical record for each resident. Medical records must be accurate, promptly completed, properly filed and retained, and accessible. The facility must use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(c) All medical records, in either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of residents under mental disability or minority, their complete facility records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the facility's policies and procedures, and no record may be destroyed on an individual basis.

(d) When a nursing home closes with no plans of reopening, an authorized representative of the facility may request final storage or disposition of the facility's medical records by the department. Upon transfer to the department, the facility relinquishes all control

(Rule 1200-08-06-.06, continued)

over final storage of the records and the files shall become property of the State of Tennessee.

(e) The nursing home must have a system of coding and indexing medical records. The system must allow for timely retrieval by diagnosis and procedure.

(f) The nursing home must have a procedure for ensuring the confidentiality of resident records. Information from or copies of records may be released only to authorized individuals, and the facility must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records must be released by the facility only in accordance with federal and state laws, court orders or subpoenas.

(g) The medical record must contain information to justify admission, support the diagnosis, and describe the resident's progress and response to medications and services.

(h) All entries must be legible, complete, dated and authenticated according to facility policy.

(i) All records must document the following:

1. Evidence of a physical examination, including a health history, performed no more than thirty (30) days prior to admission or within forty-eight (48) hours following admission;

2. Admitting diagnosis;

3. A dietary history as part of each resident's admission record;

4. Results of all consultative evaluations of the resident and appropriate findings by clinical and other staff involved in the care of the resident;

5. Documentation of complications, facility acquired infections, and unfavorable reactions to drugs;

6. Properly executed informed consent forms for procedures and treatments specified by facility policy, or by federal or state law if applicable, as requiring written resident consent;

7. All practitioners' orders, nursing notes, reports of treatment, medication records, radiology and laboratory reports, and vital signs and other information necessary to monitor the resident's condition;

8. Discharge summary with disposition of case and plan for follow-up care; and,

9. Final diagnosis with completion of medical records within thirty (30) days following discharge.

(j) Electronic and computer-generated records and signature entries are acceptable.

(6) Pharmaceutical Services.

(a) The nursing home shall have pharmaceutical services that meet the needs of the residents and are in accordance with the Tennessee Board of Pharmacy statutes and rules. The medical staff is responsible for developing policies and procedures that minimize drug errors.

(Rule 1200-08-06-.06, continued)

(b) All internal and external medications and preparations intended for human use shall be stored separately. They shall be properly stored in medicine compartments, including cabinets on wheels, or drug rooms. Such cabinets or drug rooms shall be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized persons. Poisons or external medications shall not be stored in the same compartment and shall be labeled as such.

(c) Schedule II drugs must be stored behind two (2) separately locked doors at all times and accessible only to persons in charge of administering medication.

(d) Every nursing home shall comply with all state and federal regulations governing Schedule II drugs.

(e) A notation shall be made in a Schedule II drug book and in the resident's nursing notes each time a Schedule II drug is given. The notation shall include the name of the resident receiving the drug, name of the drug, the dosage given, the method of administration, the date and time given and the name of the physician prescribing the drug.

(f) All oral orders shall be immediately recorded, designated as such and signed by the person receiving them and countersigned by the physician within ten (10) days.

(g) All orders for drugs, devices and related materials must be in writing and signed by the practitioner or practitioners responsible for the care of the resident. Electronic and computer-generated records and signature entries are acceptable. When telephone or oral orders must be used, they shall be:

1. Accepted only by personnel that are authorized to do so by the medical staff policies and procedures, consistent with federal and state law; and,

2. Signed or initialed by the prescribing practitioner according to nursing home policy.

(h) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. No Schedule II drug shall be given or continued beyond seventy-two (72) hours without a written order by the physician.

(i) Medication administration records (MAR) shall be checked against the physician's orders. Each dose shall be properly recorded in the clinical record after it has been administered.

(j) Preparation of doses for more than one scheduled administration time shall not be permitted.

(k) Medication shall be administered only by licensed medical or licensed nursing personnel or other licensed health professionals acting within the scope of their licenses.

(l) Unless the unit dose package system is used, individual prescriptions of drugs shall be kept in the original container with the original label intact showing the name of the resident, the drug, the physician, the prescription number and the date dispensed.

(m) Legend drugs shall be dispensed by a licensed pharmacist.

(Rule 1200-08-06-.06, continued)

(n) Any unused portions of prescriptions shall be turned over to the resident only on a written order by the physician. A notation of drugs released to the resident shall be entered into the medical record. All unused prescriptions left in a nursing home must be destroyed on the premises and recorded be a pharmacist. Such record shall be kept in the nursing home.

(7) Radiology Services. The nursing home must maintain or have available diagnostic radiologic services according to the needs of the residents. If therapeutic services are also provided, they, as well as the diagnostic services, must meet professionally approved standards for safety and personnel qualifications.

(8) Laboratory Services. The nursing home must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the residents. The nursing home must ensure that all laboratory services provided to its residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

(9) Food and Dietetic Services.

(a) The nursing home must have organized dietary services that are directed and staffed by adequate qualified personnel. A facility may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this paragraph and provides for constant liaison with the facility medical staff for recommendations on dietetic policies affecting resident treatment. If an outside contract is utilized for management of its dietary services, the facility shall designate a full-time employee to be responsible for the overall management of the services.

~~(b) The nursing home must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:~~

~~1. A qualified dietitian; or,~~

~~2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,~~

~~3. A graduate of a state-approved course that provided ninety (90) or more hours of classroom instruction in food service supervision and who has experience as a food service supervisor in a health care institution with consultation from a qualified dietitian.~~

(b) The nursing home must designate a person, either directly or by contractual agreement to serve as the food and dietetic services director with the responsibility for the daily management of the dietary services. The food and Dietetic services director shall be:

1. A qualified dietician; or,

2. A graduate of a dietetic technician or dietetic assistant training program, correspondence of classroom, approved by the American Dietetic Association; or,

(Rule 1200-08-06-.06, continued)

3. An individual who has successfully completed in-person or online coursework that provided ninety (90) or more hours of classroom instruction in food service supervision. If the course has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by the course requirement; or,

4. An individual who is a certified dietary manager (CDM), or certified food protection professional (CFPP); or,

5. A current or former member of the U.S. military who has graduated from an approved military dietary manager training program.

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis, who is responsible for the development and implementation of a nutrition care process to meet the needs of residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the resident and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) Menus must meet the needs of the residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.

4. A current therapeutic diet manual approved by the dietitian and medical staff must be readily available to all medical, nursing, and food service personnel.

(e) Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(f) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishments shall be provided to patients with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(g) Menus shall be prepared at least one week in advance. A dietitian shall be consulted to help write and plan the menus. If any change in the actual food served is necessary, the change shall be made on the menu to designate the foods actually served to the residents. Menus of food served shall be kept on file for a thirty (30) day period.

(h) The dietitian or designee shall have a conference, dated on the medical chart, with each resident and/or family within two (2) weeks of admission to discuss the diet plan indicated by the physician. The resident's dietary preferences shall be recorded and utilized in planning his/her daily menu.

(Rule 1200-08-06-.06, continued)

(i) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage or while being prepared and served and/or transported through hallways.

(j) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(k) All nursing homes shall have commercial automatic dishwashers approved by the National Sanitation Foundation. Dishwashing machines shall be used according to manufacturer specifications.

(l) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(m) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".

(n) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(o) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.

(p) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

(10) Social Work Services.

(a) Social services must be available to the resident, the resident's family and other persons significant to the resident, in order to facilitate adjustment of these individuals to the impact of illness and to promote maximum benefits from the health care services provided.

(b) Social work services shall include psychosocial assessment, counseling, coordination of discharge planning, community liaison services, financial assistance and consultation.

(c) A resident's social history shall be obtained within two (2) weeks of admission and shall be appropriately maintained.

(d) Social work services shall be provided by a qualified social worker.

(e) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.

(11) Physical, Occupational and Speech Therapy Services.

(Rule 1200-08-06-.06, continued)

(a) Physical therapy, occupational therapy and speech therapy shall be provided directly or through contractual agreement by individuals who meet the qualifications specified by nursing home policy, consistent with state law.

(b) A licensed physical therapist shall be in charge of the physical therapy service and a licensed occupational therapist shall be in charge of the occupational therapy service.

(c) Direct contact shall exist between the resident and the therapist for those residents that require treatment ordered by a physician.

(d) The physical therapist and occupational therapist, pursuant to a physician order, shall provide treatment and training designed to preserve and improve abilities for independent functions, such as: range of motion, strength, tolerance, coordination and activities of daily living.

(e) Therapy services shall be coordinated with the nursing service and made a part of the resident care plan.

(f) Sufficient staff shall be made available to provide the service offered.

(12) Ventilator Services. A nursing home that provides ventilator services shall meet or exceed the following minimum standards by:

(a) Ensuring a licensed respiratory care practitioner as defined by Tennessee Code Annotated Section 63-27-102(7), shall be physically present at the facility twenty four (24) hours per day, seven (7) days per week to provide:

1. ventilator care;

2. administration of medical gases;

3. administration of aerosol medications; and

4. diagnostic testing and monitoring of life support systems;

(b) Ensuring that an appropriate, individualized plan of care is prepared for each patient requiring ventilator services. The plan of care shall be developed with input and participation from a pulmonologist or a physician with experience in ventilator care;

(c) Ensuring that admissions criteria is established to ensure the medical stability of ventilator-dependent patients prior to transfer from an acute care setting;

(d) Ensuring that Arterial Blood Gas (ABG) is readily available in order to document the patient's acid base status and/or End Tidal Carbon Dioxide (etCOs) and whether continuous pulse oximetry measurements should be performed in lieu of ABG studies;

(e) Ensuring that an audible, redundant external alarm system is located outside of each ventilator-dependent patient's room for the purpose of alerting caregivers of patient disconnection, ventilator disconnection or ventilator failure;

(f) Ensuring that the nursing home is equipped with emergency suction equipment and an adequate number of Ambu bags for manual ventilation;

(g) Ensuring that ventilator equipment is connected to electrical outlets connected to back-up generator power;

(Rule 1200-08-06-.06, continued)

(h) Ensuring that ventilators are equipped with battery back-up systems;

(i) Ensuring that the nursing home is equipped to employ the use of current ventilator technology consistent with meeting patients' needs for mobility and comfort; and

(j) Ensuring that a back-up ventilator is available at all times.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-3-511, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.* ***Administrative History:*** *Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed January 29, 1991; effective March 15, 1991. Amendment filed December 29, 1992; effective February 15, 1993. Amendment filed June 15, 1993; effective July 30, 1993. Amendment filed April 17, 1996; effective July 1, 1996. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed January 31, 2000; effective April 15, 2000. Amendment filed March 29, 2000; effective June 12, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed September 21, 2005; effective December 5, 2005. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-06-.07 SPECIAL SERVICES: ALZHEIMER'S UNITS. Structurally distinct parts of a nursing home may be designated as special care units for ambulatory residents with dementia or Alzheimer's Disease and related disorders. Such units shall be designed to encourage self-sufficiency, independence and decision-making skills, and may admit residents only after the unit is found to be in compliance with licensure standards and upon final approval by the department. Units which hold themselves out to the public as providing specialized Alzheimer's services shall comply with the provisions of T.C.A. § 68-11-1404 and shall be in compliance with the following minimum standards:

(1) In order to be admitted to the special care unit:

(a) A diagnosis of dementia must be made by a physician. The specific etiology causing the dementia shall be identified to the best level of certainty prior to admission to the special care unit; and,

(b) The need for admission must be determined by an interdisciplinary team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a social worker, a registered nurse and a relative of the resident or a resident care advocate.

(2) Special care units shall be separated from the remaining portion of the nursing home by a locked door and must have extraordinary and acceptable fire safety features and policies which ensure the well being and protection of the residents.

(3) The residents must have direct access to a secured, therapeutic outdoor area. This outdoor area shall be designed and maintained to facilitate emergency evacuation.

(4) There must be limited access to the designated unit so that visitors and staff do not pass through the unit to get to other areas of the nursing home.

(5) Each unit must contain a designated dining/activity area which shall accommodate 100% seating for residents.

(6) Corridors or open spaces shall be designed to facilitate ambulation and activity, and shall have an unobstructed view from the central working or nurses' station.

(7) Drinking facilities shall be provided in the central working area or nurses' station and in the primary activities areas. Glass front refrigerators may be used.

(Rule 1200-08-10-.01, continued)

(70) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224, 68-11-1802, 68-57-101, 68-57-102 and 68-57-105.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed August 10, 1982; effective September 9, 1982. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Amendment filed March 12, 1993; effective April 26, 1993. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed May 20, 2004; effective August 3, 2004. Amendments filed September 9, 2005; effective November 23, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-10-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any ASTC as defined, without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30. The license shall be posted in a conspicuous place in the ASTC.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any ASTC without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the ASTC.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the ASTC until a license has been issued. Applicants shall not hold themselves out to the public as being an ASTC until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by Tennessee Code Annotated § 68-11-206(l), or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a

(Rule 1200-08-10-.02, continued)

license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the ambulatory surgical treatment center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) Each ASTC, when issued a license, shall be classified according to the type of services rendered or category of patients served. The ASTC shall confine its services to those described in its license and shall advertise only the services which it is licensed to perform. The classification shall be listed on the license.

(4) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For purposes of licensing, the licensee of an ASTC has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of ASTC operations is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operation;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

6. The consolidation of a corporate facility owner with one or more corporations; or,

7. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

(Rule 1200-08-10-.02, continued)

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(5) Renewal.

(a) In order to renew a license, each ambulatory surgical treatment center shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-10-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed February 26, 1985; effective March 28, 1985. Repeal and new rule filed June 30, 1992;*

1200-08-10-.04 ADMINISTRATION.

(1) The ASTC must have an effective governing body legally responsible for the conduct of the ASTC. If an ASTC does not have an organized governing body, the persons legally responsible for the conduct of the ASTC must carry out the functions specified in this chapter.

(2) The governing body shall appoint a chief executive officer or administrator who is responsible for managing the ASTC. The chief executive officer or administrator shall designate an individual to act for him or her in his or her absence, in order to provide the ASTC with administrative direction at all times.

(3) The governing body, whether it be that of the center alone or that of a parent organization, shall establish effective mechanisms to ensure the accountability of the center's medical staff and other professional personnel.

(4) The governing body shall assure that the ASTC has the financial resources to provide the services essential to the operation of the facility.

(5) Staffing shall be adequate to provide the services essential to the operation of the ASTC.

(6) The ambulatory surgical treatment center shall ensure a framework for addressing issues related to care at the end of life.

(7) The ambulatory surgical treatment center shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

(8) The ASTC shall perform only those surgical procedures which can be safely and effectively carried out on an outpatient basis.

(9) Each ASTC shall have at all times a designated Medical Director who shall be a licensed physician or dentist who shall be responsible for the direction and coordination of medical programs.

(10) Staff education programs and training sessions shall include life safety, medical equipment, utility systems, infection control and hazardous waste practices. At least two (2) on duty members of the facility shall be trained in emergency resuscitation.

(11) When licensure is applicable for a particular job, a copy of the current license must be included as a part of the personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Adequate medical screenings to exclude communicable disease shall be required of each employee.

(12) Whenever the rules and regulations of this chapter require that a licensee develop a written policy, plan, procedure, technique, or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. An ASTC which violates a required policy also violates the rule and regulation establishing the requirement.

(13) Policies and procedures shall be consistent with professionally recognized standards of practice.

(14) No ASTC shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Adult Protective Services, or the Comptroller of the State Treasury. An ASTC shall neither retaliate, nor discriminate, because of information lawfully provided to these authorities, because of a

(Rule 1200-08-10-.04, continued)

person's cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.

(15) When services such as dietary, laundry or therapy services are purchased from others, the governing body shall be responsible to assure the supplier(s) meet the same local and state standards the facility would have to meet if it were providing those services itself using its own staff.

(16) The governing body shall provide for the appointment, reappointment or dismissal of members of the medical, dental, and other health professions and provide for the granting of clinical privileges.

(17) The governing body shall ensure that there is a written facility agreement with one or more acute care general hospitals licensed by the state, which will admit any patient referral who requires continuing care.

(18) Each ASTC shall specify the classification of services to be provided in the facility and list authorized surgical procedures.

(19) Where the physician-owner-operator serves as the governing body, the articles of incorporation or other written organizational plan shall describe the manner in which the owner-operator executes the governing body responsibility.

(20) Infection Control.

(a) The ASTC must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active performance improvement program for the prevention, control, and investigation of infections and communicable diseases.

(b) The physical environment of the ambulatory surgical treatment center shall be maintained in a safe, clean and sanitary manner.

1. Any condition on the ambulatory surgical treatment center site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.

2. Cats, dogs or other animals shall not be allowed in any part of the ambulatory surgical treatment center except for specially trained animals for the handicapped and except as addressed by ambulatory surgical treatment center policy for pet therapy programs. The ambulatory surgical treatment center shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the ambulatory surgical treatment center performed by medically trained personnel.

3. A bed complete with mattress and pillow shall be provided. In addition, patient units shall be provided with at least one chair, a bedside table, an over bed tray and adequate storage space for toilet articles, clothing and personal belongings.

4. Individual wash cloths, towels and bed linens must be provided for each patient. Linen shall not be interchanged from patient to patient until it has been properly laundered.

(Rule 1200-08-10-.04, continued)

5. Bath basin water service, emesis basin, bedpan and urinal shall be individually provided.

6. Water pitchers, glasses, thermometers, emesis basins, douche apparatus, enema apparatus, urinals, mouthwash cups, bedpans and similar items of equipment coming into intimate contact with patients shall be disinfected or sterilized after each use unless individual equipment for each is provided and then sterilized or disinfected between patients and as often as necessary to maintain them in a clean and sanitary condition. Single use, patient disposable items are acceptable but shall not be reused.

(c) The chief executive officer or administrator shall assure that an infection control committee including members of the medical staff, nursing staff and administrative staff develops guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the committee shall include the establishment of:

1. Written infection control policies;

2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;

3. Written procedures governing the use of aseptic techniques and procedures in all areas of the facility, including adoption of a standardized central venous catheter insertion process which shall contain these key components:

   (i) Hand hygiene (as defined in 1200-08-10-.04(20)(g));

   (ii) Maximal barrier precautions to include the use of sterile gowns, gloves, mask and hat, and large drape on patient;

   (iii) Chlorhexidine skin antisepsis;

   (iv) Optimal site selection;

   (v) Daily review of line necessity; and

   (vi) Development and utilization of a procedure checklist;

4. Written procedures concerning food handling, laundry practices, disposal of environmental and patient wastes, traffic control and visiting rules in high risk areas, sources of air pollution, and routine culturing of autoclaves and sterilizers;

5. A log of incidents related to infectious and communicable diseases;

6. A method of control used in relation to the sterilization of supplies and water, and a written policy addressing reprocessing of sterile supplies;

7. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing and scrubbing practices, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies; and,

(Rule 1200-08-10-.04, continued)

8. Continuing education provided for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections, as evidenced by front line employees verbalizing understanding of basic techniques.

(d) The chief executive officer, the medical staff and the chief nursing officer must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control committee and must be responsible for the implementation of successful corrective action plans in affected problem areas.

(e) The facility shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.

(f) The facility shall have an annual influenza vaccination program which shall include at least:

1. The offer of influenza vaccination to all staff and independent practitioners or accept documented evidence of vaccination from another vaccine source or facility;

2. A signed declination statement on record from all who refuse the influenza vaccination for other than medical contraindications;

3. Education of all direct care personnel about the following:

(i) Flu vaccination,

(ii) Non-vaccine control measures, and

(iii) The diagnosis, transmission, and potential impact of influenza;

4. An annual evaluation of the influenza vaccination program and reasons for non-participation; and

5. The requirements to complete vaccinations or declination statements are suspended by the Medical Director in the event of a vaccine shortage.

(g) The facility and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:

1. Use of alcohol-based hand rubs or use of non-antimicrobial or antimicrobial soap and water before and after each patient contact if hands are not visibly soiled;

2. Use of gloves during each patient contact with blood or where other potentially infectious materials, mucous membranes, and non-intact skin could occur and gloves changed before and after each patient contact;

3. Use of either a non-antimicrobial soap and water or an antimicrobial soap and water for visibly soiled hands; and

4. Health care worker education programs which may include:

(Rule 1200-08-10-.04, continued)

(i) Types of patient care activities that can result in hand contamination;

(ii) Advantages and disadvantages of various methods used to clean hands;

(iii) Potential risks of health care workers' colonization or infection caused by organisms acquired from patients; and

(iv) Morbidity, mortality, and costs associated with health care associated infections.

(h) All ASTC's shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.

(21) Performance Improvement. The ASTC shall have a planned, systematic, organization-wide approach to process design and redesign, performance measurement, assessment and improvement which is approved by the designated medical staff committee of the facility, the owner and/or the governing body. This plan shall address and/or include, but is not limited to:

(a) Infection control, including post-operative surveillance;

(b) Complications arising after the patient was admitted;

(c) Documentation of periodic review of the data collected and follow-up actions;

(d) A system which identifies appropriate plans of action to correct identified quality deficiencies;

(e) Documentation that the above policies are being followed and that appropriate action is taken whenever indicated.

(f) The facility shall develop and implement a system for measuring improvements in adherence to the hand hygiene program, central venous catheter insertion process, and influenza vaccination program.

(22) The ASTC shall ensure a framework for addressing issues related to care at the end of life.

(23) The ASTC shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

(24) All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post the following in the main public entrance:

(a) Contact information including statewide toll-free number of the division of adult protective services, and the number for the local district attorney's office;

(b) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect and exploitation; and

(c) A statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in

(Rule 1200-08-10-.04, continued)

boldface type, for immediate assistance and posted on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height.

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(25) "No smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.

(26) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

(27) Informed Consent.

(a) Any ambulatory surgical treatment center in which abortions, other than abortions necessary to prevent the death of the pregnant female, are performed shall conspicuously post a sign in a location defined below so as to be clearly visible to patient, which reads:

Notice: It is against the law for anyone, regardless of the person's relationship to you, to coerce you into having or force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened criminal offense to coerce an abortion.

(b) The sign shall be printed in languages appropriate for the majority of clients of the facility with lettering that is legible and that is Arial font, at least 40-point bold-faced type.

(c) A facility in which abortions are performed that is an ambulatory surgical treatment center shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed.

(d) An ambulatory surgical treatment center shall be assessed a civil penalty by the board for licensing health care facilities of two thousand five hundred dollars ($2,500.00) for each day of violation in which:

1. The sign required above was not posted during business hours when patients or prospective patients are present; and

2. An abortion other than an abortion necessary to prevent the death of the pregnant female was performed in the ambulatory surgical treatment center.

(Rule 1200-08-10-.04, continued)
Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed September10, 1991; effective October 25, 1991. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 18, 2002; effective September 1, 2002. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed September 9, 2005; effective November 23, 2005. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed October 11, 2007; effective December 25, 2007. Amendment filed February 22, 2010; effective May 23, 2010.*

1200-08-10-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

(1) Every person admitted for care or treatment to any ASTC shall be under the supervision of a physician licensed to practice in Tennessee. The name, address and telephone number of the physician attending the patient shall be recorded in the patient's medical record.

(2) The above does not preclude the admission of a patient to an ASTC by a dentist or podiatrist licensed to practice in Tennessee with the concurrence of a physician member of the medical staff.

(3) This does not preclude qualified oral and maxillo-facial surgeons from admitting patients and completing the admission history and physical examination and assessing the medical risk of the procedure on their patients. A physician member of the medical staff is responsible for the management of medical problems.

(4) The facility shall ensure that no person on the grounds of race, color, national origin, or handicap, will be excluded from participation in, be denied benefits of, or otherwise subjected to discrimination in the provision of any care or service of the facility. The facility shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

(5) For purposes of this chapter, the requirements for signature or countersignature by a physician, dentist, podiatrist or other person responsible for signing, countersigning or authenticating an entry may be satisfied by the electronic entry by such person of a unique code assigned exclusively to him or her, or by entry of other unique electronic or mechanical symbols, provided that such person has adopted same as his or her signature in accordance with established ASTC protocol or rules.

(6) Each ASTC must have a written transfer agreement with a local hospital.

(7) The ASTC shall develop a patient referral system both for referrals within the facility and other health care providers.

(8) The ASTC shall have available a plan for emergency transportation to a licensed local hospital.

(9) The facility must ensure continuity of care and provide an effective discharge planning process that applies to all patients. The facility's discharge planning process, including discharge policies and procedures, must be specified in writing and must:

(a) Be developed and/or supervised by a registered nurse, social worker or other appropriately qualified personnel;

(b) Begin upon admission;

(Rule 1200-08-10-.05, continued)

(c) Be provided when identified as a need by the patient, a person acting on the patient's behalf, or by the physician; and

(d) Include the likelihood of a patient's capacity for self-care or the possibility of the patient returning to his or her pre-ambulatory surgical treatment center environment.

(10) A discharge plan is required on every patient, even if the discharge is to home.

(11) The facility must arrange for the initial implementation of the patient's discharge plan and must reassess the patient's discharge plan if there are factors that may affect continuing care needs or the appropriateness of the discharge plan.

(12) As needed, the patient and family members or interested persons must be taught and/or counseled to prepare them for post-operative care.

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 22, 1977; effective August 22, 1977. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003.*

1200-08-10-.06 BASIC SERVICES.

(1) Surgical Services.

(a) Facilities restricted in services they provide, e.g. those that restrict services to radiation therapy or use of local anesthetics only, may be exempted from all or part of the requirements of this rule pertaining to laboratory services, food and dietetic services, surgical services, and anesthesia services.

(b) If the facility provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

(c) A hospital may choose to separately license a portion of the facility as an Ambulatory Surgical Treatment Center; the licensure fee for such is not required.

(d) The organization of the surgical services must be appropriate to the scope of the services offered.

(e) The operating rooms must be supervised by an experienced registered nurse or a doctor of medicine or osteopathy.

(f) An ASTC may use scrub nurses in its operating rooms. For the purposes of this rule, a "scrub nurse" is defined as a registered nurse or either a licensed practical nurse (L.P.N.) or a surgical technologist (operating room technician) supervised by a registered nurse who works directly with a surgeon within the sterile field, passing instruments, sponges, and other items needed during the procedure and who scrubs his or her hands and arms with special disinfecting soap and wears surgical gowns, caps, eyewear, and gloves, when appropriate.

(g) Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable State laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the

(Rule 1200-08-10-.06, continued)

supervision of a qualified registered nurse who is immediately available to respond to emergencies.

(h) Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must maintain a roster of practitioners specifying the surgical privileges of each practitioner.

(i) Surgical services must be consistent with needs and resources. Policies covering surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

(j) Surgical technologists must:

1. Hold current national certification established by the Liaison Council on Certification for the Surgical Technologist (LCC-ST); or

2. Have completed a program for surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); or

3. Have completed an appropriate training program for surgical technologists in the armed forces or at a CAAHEP accredited hospital or CAAHEP accredited ambulatory surgical treatment center; or

4. Successfully complete the surgical technologists LCC-ST certifying exam; or

5. Provide sufficient evidence that, prior to May 21, 2007, the person was at any time employed as a surgical technologist for not less than eighteen (18) months in the three (3) years preceding May 21, 2007 in a hospital, medical office, surgery center, or an accredited school of surgical technology; or has begun the appropriate training to be a surgical technologist prior to May 21, 2007, provided that such training is completed within three (3) years of May 21, 2007.

(k) An ASTC can petition the director of health care facilities of the department for a waiver from the provisions of 1200-08-10-.06(1)(j) if they are unable to employ a sufficient number of surgical technologists who meet the requirements. The facility shall demonstrate to the director that a diligent and thorough effort has been made to employ surgical technologist who meet the requirements. The director shall refuse to grant a waiver upon finding that a diligent and thorough effort has not been made. A waiver shall exempt a facility from meeting the requirements for not more than nine (9) months. Additional waivers may be granted, but all exemptions greater than twelve (12) months shall be approved by the Board for Licensing Health Care Facilities.

(l) Surgical technologists shall demonstrate continued competence in order to perform their professional duties in surgical technology. The employer shall maintain evidence of the continued competence of such individuals. Continued competence activities may include but are not limited to continuing education, in-service training, or certification renewal.

(m) There must be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergencies. If the history has been dictated, but not yet recorded in the patient's chart, there must be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.

(n) Properly executed informed consent, advance directive, and organ donation forms must be in the patient's chart before surgery, except in emergencies.

(Rule 1200-08-10-.06, continued)

(o) Adequate equipment and supplies must be available to the operating room suites and to the post-operative care area;

1. Call-in system (OR)
2. Cardiac monitor
3. Pulse Oximeter
4. Resuscitator
5. Defibrillator
6. Aspirator
7. Tracheotomy set

(p) A crash cart must be available and include at a minimum the following medication and supplies:

1. adrenalin (epinephrine) 1: 10,000 dilution; 10 ml
2. adrenalin (epinephrine) 1:1000 dilution; 1 ml
3. atropine 0.1 mg/ml
4. benadryl (diphenhydramine)
5. calcium chloride 10%; 10ml amp
6. dextrose. 50%
7. dilantin (phentoin)
8. dopamine
9. heparin
10. inderal (proprandolol)
11. isuprel
12. lanoxin (digoxin)
13. lasix (furosemide)
14 xylocaine (lidocaine)
15. magnesium sulfate 50%
16. narcan (naloxone)
17. pronestyl (procainaimide)

(Rule 1200-08-10-.06, continued)

18. sodium bicarbonate 50 mEq/50ml

19. solu-medrol (methylprednisolone)

20. verapamil hydrochloride

21. mazicon

22. Suction devices, endotracheal tubes, laryngoscopes, etc.,

23. Positive pressure ventilation device (e.g., Ambu) plus oxygen supply.

24. Double tourniquet for the Bier block procedure.

25. Emergency intubation equipment.

26. IV solution and IV equipment.

(q) At least one registered nurse shall be in the recovery area during the patient's recovery period.

(r) The operating room register must be complete and up-to-date.

(s) An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.

(t) The ASTC shall provide one or more surgical suites which shall be constructed, equipped, and maintained to assure the safety of patients and personnel.

(u) Surgical suites are required to meet the same standards as hospital operating rooms, including those using general anesthesia.

(v) The ASTC shall have separate areas for waiting rooms, recovery rooms, treatment and/or examining rooms.

(2) Anesthesiology Services. Anesthesia shall be administered by:

(a) A qualified anesthesiologist;

(b) A doctor of medicine or osteopathy (other than an anesthesiologist);

(c) A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

(d) A certified registered nurse anesthetist (CRNA); or

(e) A graduate registered nurse anesthetist under the supervision of an anesthesiologist who is immediately available if needed.

(f) After the completion of anesthesia, patients shall be constantly attended by competent personnel until responsive and able to summon aid. Each center shall maintain a log of the inspections made prior to each day's use of the anesthesia equipment. A record of all service and maintenance performed on all anesthesia machines, vaporizers and ventilators shall also be on file.

(Rule 1200-08-10-.06, continued)

~~(g) When general anesthesia and/or succinylcholine are administered, the facility shall maintain thirty-six (36) ampules of dantrolene for injection on site. If dantrolene is administered, appropriate monitoring must be provided post operatively.~~

(g) When inhaled general anesthesia known to trigger malignant hyperthermia and/or succinylcholine are maintained in the facility, there shall be thirty-six (36) ampules of Dantrolene for injection onsite. This requirement applies to anesthesia agents, current or future, that are shown to cause malignant hyperthermia. If Dantrolene is administered, appropriate monitoring must be provided post-operatively.

(h) Written policies and procedures relative to the administration of anesthesia shall be developed and approved by the Medical Staff and governing body.

(i) Any patient receiving conscious sedation shall receive:

1. continuous EKG monitoring;

2. continuous oxygen saturations;

3. serial BP monitoring at intervals no less than every 5 minutes; and

4. supplemental oxygen therapy and immediately available:

(i) ambubag;

(ii) suction;

(iii) endotracheal tube; and

(iv) crash cart.

(3) Medical Staff.

(a) The ASTC shall have a medical staff organized under written by-laws that are approved by the governing body. The medical staff of the ASTC shall define a mechanism to:

1. Assure that an optimal level of professional performance is maintained;

2. Appoint independent practitioners through a defined credentialing process;

3. Apply credentialing criteria uniformly;

4. Utilize the current license, relevant training and experience, current competence and the ability to perform requested privileges in the credentialing process; and

5. Provide for participation in required committees of the facility to ensure that quality medical care is provided to the patients.

(b) Each licensed independent practitioner shall provide care under the auspices of the facility in accordance with approved privileges.

(c) Clinical privileges shall be granted based on the practitioners' qualifications and the services provided by the facility, and shall be reviewed and/or revised at least every two (2) years.

(Rule 1200-08-10-.06, continued)

(4) Nursing Service. A licensed registered nurse (R.N.) shall be on duty at all times. Additional appropriately trained staff shall be provided as needed to ensure that the medical needs of the patients are fully met.

(a) The ASTC shall be organized under written policies and procedures relating to patient care, establishment of standards for nursing care and mechanisms for evaluating such care and nursing services.

(b) A qualified registered nurse designated by the administrator shall be responsible for coordinating and supervising all nursing services.

(c) There shall be a sufficient staffing pattern of registered nurses to provide quality nursing care to each surgical patient from admission through discharge. Additional staff shall be on duty and available to assist the professional staff to adequately handle routine and emergency patient needs.

(d) The ASTC shall establish written procedures for emergency services which will ensure that professional staff members who have been trained in emergency resuscitation procedures shall be on duty at all times when there is a patient in the ASTC and until the patient has been discharged.

(e) Nursing care policies and procedures shall be consistent with professionally recognized standards of nursing practice and shall be in accordance with the Nurse Practice Act of the State of Tennessee and the Association of Operating Room Nurses Standards of Practice.

(f) Staff development and training shall be provided to the nursing staff and other ancillary staff in order to maintain and improve knowledge and skills. The educational/training program shall be planned, documented and conducted on a continuing basis. There shall be at least appropriate training on equipment, safety concerns, infection control and emergency care on an annual basis.

(5) Pharmaceutical Services. The ASTC must provide drugs and biologicals in a safe and effective manner in accordance with accepted standards of practice. Such drugs and biologicals must be stored in a separate room or cabinet which shall be kept locked at all times.

(6) Ancillary Services. All ancillary or supportive health or medical services, including but not limited to, radiological, pharmaceutical, or medical laboratory services shall be provided in accordance with all applicable state and federal laws and regulations.

(7) Radiological Services. The ASTC shall provide within the facility, or through arrangement, diagnostic radiological services commensurate with the needs of the ambulatory surgical treatment center.

(a) If radiological services are provided by facility staff, the services shall be maintained free of hazards for patients and personnel.

(b) New installations of radiological equipment, and subsequent inspections for the identification of radiation hazards shall be made as specified in state and federal requirements.

(Rule 1200-08-10-.06, continued)

(c) Personnel monitoring shall be maintained for each individual working in the area of radiation. Readings shall be on at least a monthly basis and reports kept on file and available for review.

1. Personnel - The ASTC shall have a radiologist either full-time or part-time on a consulting basis, both to supervise the service and to discharge professional radiological services.

2. The use of all radiological apparatus shall be limited to personnel designated as qualified by the radiologist; and use of fluoroscopes shall be limited to physicians.

(d) If provided under arrangement with an outside provider, the radiological services must be directed by a qualified radiologist and meet state and federal requirements.

(8) Laboratory Services.

(a) The ASTC shall provide on the premises or by written agreement with a laboratory licensed under T.C.A. 68-29-105, a clinical laboratory to provide those services commensurate with the needs and services of the ASTC.

(b) Any patient terminating pregnancy in an ASTC shall have an Rh type, documented prior to the procedure, performed on her blood. In addition, she shall be given the opportunity to receive Rh immune globulin after an appropriate crossmatch procedure is performed within a licensed laboratory.

(9) Food and Dietetic Services. If a patient will be in the facility for more than four (4) hours post-op, an appropriate diet shall be provided.

(10) Environmental Services.

(a) The facility shall provide a safe, accessible, effective and efficient environment of care consistent with its mission, service, law and regulation.

(b) The facility shall develop policies and procedures that address:

1. Safety;

2. Security;

3. Control of hazardous materials and waste;

4. Emergency preparedness;

5. Life safety;

6. Medical equipment; and,

7. Utility systems.

(c) Staff shall have been oriented to and educated about the environment of care and possess knowledge and skills to perform responsibilities under the environment of care policies and procedures.

(Rule 1200-08-10-.06, continued)

(d) Utility systems, medical equipment, life safety elements, and safety elements of the environment of care shall be maintained, tested and inspected.

(e) Safety issues shall be addressed and resolved.

(f) Appropriate staff shall participate in implementing safety recommendations and monitoring their effectiveness.

(g) The building and grounds shall be suitable to services provided and patients served.

(11) Medical Records.

(a) The ASTC shall comply with the Medical Records Act of 1974, T.C.A. § 68-11-301, et seq.

(b) A medical record shall be maintained for each person receiving medical care provided by the ASTC and shall include:

1. Patient identification;

2. Name of nearest relative or other responsible agent;

3. Identification of primary source of medical care;

4. Dates and times of visits;

5. Signed informed consent;

6. Pertinent medical history;

7. Diagnosis;

8. Physician examination report;

9. Anesthesia records of pertinent preoperative and postoperative reports including preanesthesia evaluation, type of anesthesia, technique and dosage used;

10. Operative report;

11. Discharge summary, including instructions for self care and instructions for obtaining postoperative emergency care;

12. Reports of all laboratory and diagnostic procedures along with tests performed and the results authenticated by the appropriate personnel; and,

13. X-ray reports.

(c) Medical records shall be current and confidential. Medical records and copies thereof shall be made available when requested by an authorized representative of the board or the department.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68, 68-11-209, 68-11-216, 68-57-101, 68-57-102, 68-57-104, and 68-57-105.* ***Administrative History:*** *Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed September 10, 1991; effective October 25, 1991. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21,*

(Rule 1200-08-10-.06, continued)
2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.

1200-08-10-.07 RESERVED.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-209, and 68-57-105.* ***Administrative History:*** *Original rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 4, 2000; effective June 4, 2000. Amendment filed June 16, 2003; effective August 30, 2003. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-10-.08 BUILDING STANDARDS.

(1) An ASTC shall construct, arrange, and maintain the condition of the physical plant and the overall ASTC environment in such a manner that the safety and well-being of the patients are assured.

(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.

(3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.

(4) The licensed contractor shall perform all new construction and renovations to ASTCs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in ASTCs, including the submission of phased construction plans and the final drawings and the specifications to each.

(5) No new ASTC shall be constructed, nor shall major alterations be made to an existing ASTC without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new ASTC is licensed or before any alteration or expansion of a licensed ASTC can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

(Rule 1200-08-11-.01, continued)

(39) Qualified Emergency Medical Service Personnel. Includes, but shall not be limited to, emergency services personnel providers, or entities acting within the usual course of their professions, and other emergency responders.

(40) Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the resident's health care needs. Such availability shall include, but not limited to, availability by telephone.

(41) Responsible Attendant. The person designated by the licensee who remains awake to provide personal services to the residents. In the absence of the licensee, the responsible attendant is responsible for ensuring the home complies with all rules and regulations.

(42) Secured Unit. A facility or distinct part of a facility where the residents are intentionally denied egress by any means.

(43) Shall or Must. Compliance is mandatory.

(44) State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(45) Supervising Heath Care Provider. The designated physician or, if there is no designated physician ot the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(46) Surrogate. An individual, other that a resident's agent or guardian, authorized to make a health care decision for the resident.

(47) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(48) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed June 21, 1979; effective August 6, 1979. Amendment filed August 16, 1988; effective September 30, 1988. Amendment filed January 30, 1992; effective March 15, 1992. Amendment filed December 7, 1993; effective February 20, 1994. Repeal and new rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003.Amendment filed September 8, 2006; effective November 22, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-11-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any home for the aged without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the facility.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home for the aged without having a license. A

(Rule 1200-08-11-.02, continued)

license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home for the aged.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1.	Less than 6 beds	$ 300.00
2.	6 to 24 beds, inclusive	$ 800.00
3.	25 to 49 beds, inclusive	$ 1,000.00
4.	50 to 74 beds, inclusive	$ 1,200.00
5.	75 to 99 beds, inclusive	$ 1,400.00
6.	100 to 124 beds, inclusive	$ 1,600.00
7.	125 to 149 beds, inclusive	$ 1,800.00
8.	150 to 174 beds, inclusive	$ 2,000.00
9.	175 to 199 beds, inclusive	$ 2,200.00

For homes for the aged of two hundred (200) beds or more the fee shall be two thousand four hundred dollars ($2,400.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the home until a license has been issued. Applicants shall not hold themselves out to the public as being a home for the aged until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the residential home for the aged to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(Rule 1200-08-11-.02, continued)

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purpose of licensing, the licensee of a home for the aged has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the home's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the home is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;

6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate facility owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(Rule 1200-08-11-.02, continued)

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each residential home for the aged shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure; and

2. the license fee provided in rule 1200-08-11-.02(2)(b).

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

(5) A license shall be issued only for the location designated and the licensee named in the application. If a home moves to a new location, a new license will be required before residents are admitted. A licensee who plans to relocate must contact the department to inspect the new building prior to relocation.

(6) Any admission in excess of the licensed bed capacity is prohibited.

(7) A separate license shall be required for each home for the aged when more than one home is operated under the same management or ownership.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed June 21, 1979; effective August 6, 1997. Amendment filed August 16, 1988; effective September 30, 1988. Amendment filed January 30, 1992; effective March 15, 1992. Repeal and new rule filed July 27, 2000; effective October 10, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed September 8, 2006; effective November 22, 2006. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendments filed September 24, 2009; effective December 23, 2009.*

(Rule 1200-08-15-.01, continued)

(81) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(82) Volunteer. An individual who agrees to provide services to a hospice care patient or HIV resident and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed November 22, 2005; effective February 5, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-15-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any residential hospice without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the residential hospice shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the residential hospice.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any residential hospice without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic areas specified by the certificate of need or at the time of the original licensing. The name of the residential hospice shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance.The license shall be conspicuously posted in the residential hospice.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1.	Less than 25 beds	$ 800.00
2.	25 to 49 beds, inclusive	$1,025.00
3.	50 to 74 beds, inclusive	$1,225.00
4.	75 to 99 beds, inclusive	$1,425.00
5.	100 to 124 beds, inclusive	$ 1,625.00

(Rule 1200-08-15-.02, continued)

6. 125 to 149 beds, inclusive $ 1,825.00

7. 150 to 174 beds, inclusive $ 2,025.00

8. 175 to 199 beds, inclusive $ 2,225.00

For residential hospice of two hundred (200) beds or more the fee shall be two thousand four hundred twenty-five dollars ($2,425.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients or residents shall not be admitted to the residential hospice until a license has been issued. Applicants shall not hold themselves out to the public as being a residential hospice until the license has been issued. A license shall not be issued until the residential hospice is in substantial compliance with these rules and regulations, including submission of all information required by T.C.A. § 68 -11-206(l) or as later amended, and all information required by the commissioner.

(d) The applicant must prove the ability to meet the financial needs of the residential hospice.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the residential hospice to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of a residential hospice has the ultimate responsibility for the operation of the residential hospice, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the residential hospice's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the residential hospice is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to the following:

1. Transfer of the residential hospice's legal title;

2. Lease of the residential hospice's operations;

(Rule 1200-08-15-.02, continued)

3. Dissolution of any partnership that owns, or owns a controlling interest in, the residential hospice;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the residential hospice is owned by a limited partnership;

6. Merger of a residential hospice owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate residential hospice owner with one or more corporations; or,

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the residential hospice. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the residential hospice's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each residential hospice shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(Rule 1200-08-15-.02, continued)

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the annual renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-15-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), § 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 19, 2003; effective February 2, 2004 Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-15-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the residential hospice;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the patients or residents of the residential hospice; or

(e) Failure to renew the license.

(2) The board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patients in the residential hospice;

(c) The conduct of the residential hospice in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and,

(Rule 1200-08-24-.01, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255 and 68-11-1802.* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed September 17, 2002; effective December 1, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed January 3, 2006; effective March 19, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-24-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any birthing center without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the facility.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any birthing center without having a license. A license shall be issued only to the applicant named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the birthing center.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the birthing center until a license has been issued. Applicants shall not hold themselves out to the public as being a birthing center until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the birthing center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(Rule 1200-08-24-.02, continued)

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of a birthing center has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the facilities operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the birthing center is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;

6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate facility owner with one or more corporations; or,

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However. if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(Rule 1200-08-24-.02, continued)

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each birthing center shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-24-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-24-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission, of any illegal act in the birthing center;

(Rule 1200-08-25-.02, continued)

(28) "Primarily aged" means that a minimum of fifty-one percent (51%) of the population of the facility is at least sixty- two (62) years of age.

(29) "Resident sleeping unit" means a single unit providing sleeping facilities for one or more persons. Resident sleeping units can also include permanent provisions for living, eating and sanitation.

(30) "Responsible attendant" means the individual person designated by the licensee to provide personal services to the residents.

(31) "Secured unit" means a distinct part of an ACLF where the residents are intentionally denied egress by any means.

(32) "Self-administration of medication" means assistance in reading labels, opening dosage packaging, reminding residents of their medication, or observing the resident while taking medication in accordance with the plan of care.

(33) "Supervising health care provider" means the health care provider who has undertaken primary responsibility for an individual's health care.

(34) "Surrogate" means an individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident pursuant to T.C.A. § 68-11-1806.

(35) "Treating health care provider" means a health care provider directly or indirectly involved in providing health care to a resident at the time such care is needed by the resident.

(36) "Universal Do Not Resuscitate Order" means a written order that applies regardless of the treatment setting and that is signed by the patient's physician which states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-211.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Amendment filed February 23, 2007; effective May 9, 2007. 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. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-25-.03 LICENSING REQUIREMENTS.

(1) An applicant for an ACLF license shall submit the following to the office of the Board for Licensing Health Care Facilities:

(a) A completed application on a form approved by the Board;

(b) Nonrefundable application fee;

(c) Demonstration of the ability to meet the financial obligations of the ACLF with a financial statement prepared by a certified public accountant;

(d) A copy of a local business license (if one is required by the locality);

(Rule 1200-08-25-.03, continued)

(e) A copy of any and all documents demonstrating the legal status of the business organization that owns the ACLF. If the applicant is a corporation or a limited liability company the applicant must submit a certificate of good standing; and

(f) Any other documents or information requested by the Board.

(2) Before a license is granted, the applicant shall submit to an inspection conducted by Department of Health inspectors to ensure compliance with all applicable laws and rules.

(3) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an applicant has been denied a license or has had a license disciplined or has attempted to avoid the survey and review process.

~~(4) ACLF licenses expire annually on June 30 and must be renewed by that date.~~

(4) ACLF licenses shall expire and become invalid annually on the anniversary date of their original issuance.

(a) In order to successfully renew a license, Department inspectors will periodically inspect each ACLF to determine its compliance with these rules and regulations. If the inspectors find deficiencies, the licensee shall submit an acceptable corrective action plan and shall remedy the deficiencies.

~~(b) Should the licensee fail to renew its license prior to the expiration date, yet within sixty (60) days after the expiration date, then the licensee shall pay a late renewal penalty fee of one hundred dollars ($100.00) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure; and

2. the license fee provided in rule 1200-08-25-.04(1).

(d) Upon reapplication, the licensee shall submit to an inspection of the ACLF by Department of Health inspectors.

(5) The Board shall issue a license only for the licensee and the location designated on the license application. If an ACLF moves to a new location, it shall obtain a new license and submit to an inspection of the new building before admitting residents.

(6) A separate license shall be required for each ACLF when more than one facility is operated under the same management or ownership.

(7) Any admission in excess of the licensed bed capacity is prohibited.

(8) Change of Ownership.

(Rule 1200-08-25-.03, continued)

(a) A change of ownership occurs whenever the ultimate legal authority for the responsibility of the ACLF's operation is transferred, including a change in the legal structure by which the ACLF is owned and operated, and/or whenever ownership of the preceding or succeeding entity changes.

(b) A licensee shall notify the Board's administrative office of a proposed change of ownership within at least thirty (30) days prior to its occurrence by submitting the following to the Board office:

1. A completed change of ownership application on a form approved by the Board;

2. Nonrefundable application fee;

3. Demonstration of ability to meet the financial obligations of the ACLF with a financial statement prepared by a certified public accountant;

4. A copy of a local business license (if one is required by the locality);

5. A copy of any and all documents demonstrating the formation of the business organization that owns the ACLF;

6. The bill of sale and/or closing documents indicating the transfer of operations of the business entity; and

7. Any other documents or information requested by the Board.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the ACLF's legal title;

2. Lease of the ACLF's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the ACLF;

4. The removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the ACLF is owned by a limited partnership;

6. Merger of an ACLF owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate ACLF owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Merger of two (2) or more corporations where one of the originally-licensed corporations survives;

(Rule 1200-08-25-.03, continued)

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government;

5. Corporate stock transfers or sales, even when a controlling interest.

6. Sale/lease-back agreements if the lease involves the ACLF's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner; or

7. Management agreements if the owner continues to retain ultimate authority for the operation of the ACLF; however, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(9) Certification of Administrator

(a) Each ACLF must have an administrator who shall be certified by the Board, unless the administrator is currently licensed in Tennessee as a nursing home administrator as required by T.C.A. §§ 63-16-101, et seq.

(b) An applicant for certification as an ACLF administrator shall submit the following to the Board office:

1. A completed application on a form approved by the Board;

2. Nonrefundable application fee;

3. Proof that the applicant is at least eighteen (18) years of age;

4. Proof that the applicant is a high school graduate or the holder of a general equivalency diploma;

5. Results of a criminal background check; and

6. Proof that the applicant has not been convicted of a criminal offense involving the abuse or intentional neglect of an elderly or vulnerable individual.

(c) Renewal of ACLF administrator certification.

1. Certification shall be renewed biennially on June 30.

2. The initial biennial re-certification expiration date of ACLF administrator candidates who receive their first certification between the dates of January 1 and June 30 of any year will be extended to two (2) years plus the additional months remaining in the fiscal year.

3. In order to renew certification, the ACLF administrator shall submit the following to the Board office: renewal application; fee established by rule 1200-08-25-.04; and proof of having obtained at least twenty-four (24) classroom hours of continuing education during the previous two (2) years.

4. An ACLF administrator shall complete twenty-four (24) classroom hours of continuing education approved by the Board prior to attendance, including, but not limited to the following topics:

(Rule 1200-08-25-.03, continued)

(i) State rules and regulations for ACLFs;

(ii) Health care management;

(iii) Nutrition and food service;

(iv) Financial management; and

(v) Healthy lifestyles.

5. All educational courses sponsored by the National Association of Boards of Examiners for Nursing Home Administrators (NAB) and continuing education courses sponsored by State and/or national associations that focus on geriatric care are board approved.

6. An ACLF administrator who allows an administrator certification to lapse and reapplies for new certification must submit written proof of attendance of at least twenty-four (24) classroom hours of continuing education courses, as described in Part 4 above, within six (6) months after submitting a new application.

(10) The licensee shall immediately notify the Board's administrative office in the event of an absence or change of administrator due to serious illness, incapacity, death or resignation of its named administrator.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 4-5-219, 4-5-312, 4-5-316, 4-5-317, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-208, 68-11-209, 68-11-213, and Chapter 846 of the Public Acts of 2008, § 1.* ***Administrative History:*** *Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed March 1, 2007; effective May 15, 2007. 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.*

1200-08-25-.04 FEES.

(1) Each ACLF, except those operated by the United States of America or the State of Tennessee, making application for licensure under this chapter shall pay annually to the Board's administrative office, a fee based on the number of ACLF beds, as follows:

(a)	Less than 25 beds	$ 800.00
(b)	25 to 49 beds, inclusive	$ 1,000.00
(c)	50 to 74 beds, inclusive	$ 1,200.00
(d)	75 to 99 beds, inclusive	$ 1,400.00
(e)	100 to 124 beds, inclusive	$ 1,600.00
(f)	125 to 149 beds, inclusive	$ 1,800.00
(g)	150 to 174 beds, inclusive	$ 2,000.00
(h)	175 to 199 beds, inclusive	$ 2,200.00

For ACLFs of two hundred (200) beds or more, the fee shall be two thousand four hundred dollars ($2,400.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or

(Rule 1200-08-26-.01, continued)

(54) Respiratory Therapist. A person currently licensed as such by the Tennessee Board of Respiratory Care.

(55) Shall or Must. Compliance is mandatory.

(56) Social Work Assistant. A person who has a baccalaureate degree in social work, psychology, sociology or other field related to social work, and has at least one (1) year of social work experience in a health care setting. Social work related fields include bachelor/masters degrees in psychology, sociology, human services (behavioral sciences, not human resources), masters degree in counseling fields (psychological guidance and guidance counseling) and degrees in gerontology.

(57) Speech Therapist. A person currently licensed as such by The Tennessee Board of Communication Disorders and Sciences.

(58) State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(59) Student. A person currently enrolled in a course of study that is approved by the appropriate licensing board or equivalent body.

(60) Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(61) Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these rules.

(62) Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(63) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(64) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendments 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.*

1200-08-26-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing Home Health Services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area~~

(Rule 1200-08-26-.02, continued)

~~specified by the certificate of need or at the time of the original licensing. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing home health services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic areas specified by the certificate of need or at the time of the original licensing. The name of the home care organization providing home health services shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the homecare organization providing home health services.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department. Patients shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the home care agency providing home health services to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the Department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the Department before the license may be issued.

(a) For the purposes of licensing, the licensee of an agency has the ultimate responsibility for the operation of the agency, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the agency's operation is transferred.

(Rule 1200-08-26-.02, continued)

(b) A change of ownership occurs whenever there is a change in the legal structure by which the agency is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to the following:

1. Transfer of the agency's legal title;

2. Lease of the agency's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the agency;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the agency is owned by a limited partnership;

6. Merger of an agency owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate agency owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the agency. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the agency's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(Rule 1200-08-26-.02, continued)

(a) In order to renew a license, each home care agency providing home health services shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-26-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, §68-11-209(a)(1), 68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed May 31, 2000; effective August 14, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-26-.03 DISCIPLINARY PROCEDURES.

(1) The Board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the agency or the patient's home;

(d) Conduct or practice found by the Board to be detrimental to the health, safety, or welfare of the patients of the agency; or

(e) Failure to renew the license.

(Rule 1200-08-27-.01, continued)

(66) Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(67) Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(68) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(69) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(70) Volunteer. An individual who agrees to provide services to a hospice care patient and/or family member(s), without monetary compensation, in either direct patient care or an administrative role and supervised by an appropriate hospice care employee.

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 2, 2005; effective February 15, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed December 23, 2009; effective March 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-27-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing Hospice Services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of the original licensing. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing hospice services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure and for the geographic area specified by the certificate of need or at the time of licensing. The name of the home care organization providing hospice services shall not be charged without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home care organization providing hospice services.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(Rule 1200-08-27-.02, continued)

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department. Patients shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the home care agency providing hospice services to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the Department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the Department before the license may be issued.

(a) For the purposes of licensing, the licensee of an agency has the ultimate responsibility for the operation of the agency, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the agency's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the agency is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to the following:

1. Transfer of the agency's legal title;

2. Lease of the agency's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the agency;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the agency is owned by a limited partnership;

6. Merger of an agency owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate agency owner with one or more corporations; or

(Rule 1200-08-27-.02, continued)

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the agency. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the agency's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each home care agency providing hospice services shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-27-.02(2)(b); and

(Rule 1200-08-27-.02, continued)

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed April 17, 2000; effective July 1, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-27-.03 DISCIPLINARY PROCEDURES.

(1) The Board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the agency;

(d) Conduct or practice found by the Board to be detrimental to the health, safety, or welfare of the patients of the agency; or

(e) Failure to renew the license.

(2) The Board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patient in the agency;

(c) The conduct of the agency in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(d) Any prior violations by the agency of statutes, rules or orders of the Board.

(3) When an agency is found by the Department to have committed a violation of this chapter, the Department will issue to the agency a statement of deficiencies. Within ten (10) days of receipt of the statement of deficiencies the agency must return a plan of correction indicating the following:

(a) How the deficiency will be corrected;

(b) The date upon which each deficiency will be corrected;

(c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and

(d) How the corrective action will be monitored to ensure that the deficient practice does not recur.

(Rule 1200-08-28-.01, continued)

(70) State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(71) Student. A person currently enrolled in an accredited course of study that is approved by the appropriate licensing board or equivalent body.

(72) Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(73) Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Periodic supervision must be provided if the person is not a licensed or certified assistant, unless otherwise provided in accordance with these regulations.

(74) Surrogate. An individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident.

(75) Terminally ill. An individual with a medical prognosis that his or her life expectancy is six (6) months or less if the illness runs its normal course.

(76) Transfer. The movement of a resident at the direction of a physician or other qualified or certified professionals when a physician is not readily available, but does not include such movement of a resident who leaves the facility against medical advice.

(77) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the resident.

(78) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(79) Volunteer. An individual who agrees to provide services to a resident, staff, significant other and/or family member(s), without monetary compensation, with appropriate supervision by the facility.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-216, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-28-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any HIV supportive living facility without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure at the time of the original licensing. The name of the HIV supportive living facility shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the HIV supportive living facility.~~

(Rule 1200-08-28-.02, continued)

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any HIV supportive living center without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure at the time of the original licensing. The name of the HIV supportive living center shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the in the HIV supportive living center.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee based on the number of beds as follows:

1.	Less than 25 beds	$ 800.00
2.	25 to 49 beds, inclusive	$ 1,000.00
3.	50 to 74 beds, inclusive	$1,200.00
4.	75 to 99 beds, inclusive	$1,400.00
5.	100 to 124 beds, inclusive	$ 1,600.00
6.	125 to 149 beds, inclusive	$ 1,800.00
7.	150 to 174 beds, inclusive	$ 2,000.00
8.	175 to 199 beds, inclusive	$ 2,200.00

For HIV supportive living facilities of two hundred (200) beds or more the fee shall be two thousand four hundred dollars ($2,400.00) plus two hundred dollars ($200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the HIV supportive living facility until a license has been issued. Applicants shall not hold themselves out to the public as being a HIV supportive living facility until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the HIV supportive living facility.

(e) The applicant shall answer each question provided in the application fully and truthfully, shall not supply false or misleading information and shall not use any deceptive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and Review process.

(Rule 1200-08-28-.02, continued)

(f) The applicant shall allow the HIV supportive living facility to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of a HIV supportive living facility has the ultimate responsibility for the operation of the HIV supportive living facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the HIV supportive living facility's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the HIV supportive living facility is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to the following:

1. Transfer of the HIV supportive living facility's legal title;

2. Lease of the HIV supportive living facility's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the HIV supportive living facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the HIV supportive living facility is owned by a limited partnership;

6. Merger of a HIV supportive living facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate HIV supportive living facility owner with one or more corporations; or,

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors for board of trustees;

2. Two (2) or more corporations merge and the originally licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

(Rule 1200-08-28-.02, continued)

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the HIV supportive living facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the HIV supportive living facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each HIV supportive living facility shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure; and

2. the license fee provided in rule 1200-08-28-.02(2)(b).

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-28-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(Rule 1200-08-29-.01, continued)
rule filed August 24, 2000; effective November 7, 2000. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendment filed June 25, 2007; effective September 8, 2007. Amendment filed October 11, 2007; effective December 25, 2007. Amendments filed December 23, 2009; effective March 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.

1200-08-29-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Home Care Organization providing home medical equipment without having a license. A license shall be issued to the person or persons named and only for the premises listed in the application for licensure. The name of the agency shall not be changed without first notifying the Department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing home medical equipment without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. The name of the home care organization providing home medical equipment shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home care organization providing home medical equipment.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the Department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department. Patients shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules.

(d) The applicant must prove the ability to meet the financial needs of the agency.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid an inspection and review process.

(f) The applicant shall allow the home care organization providing home medical equipment to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(Rule 1200-08-29-.02, continued)

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the Department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the Department before the license may be issued.

(a) For the purpose of licensing, the licensee of an agency has the ultimate responsibility for the operation of the agency, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the agency's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the agency is owned and operated.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the agency's legal title;

2. Lease of the agency's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the agency;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the agency is owned by a limited partnership;

6. Merger of an agency owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate agency owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or

5. Corporate stock transfer or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the agency. However, if the

(Rule 1200-08-29-.02, continued)

ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the agency's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the exact same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each home care organization providing home medical equipment shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-29-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed November 19, 2003; effective February 2, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed February 22, 2010; effective May 23, 2010.*

1200-08-29-.03 DISCIPLINARY PROCEDURES.

(1) The Board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(Rule 1200-08-29-.04, continued)

(c) A statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in boldface type, for immediate assistance and posted on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height.

Postings of (a) and (b) shall be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(7) "No smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.

(8) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

Authority: *T.C.A. §§4-5-202, 4-5-204, 39-17-1803, 39-17-1805, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-1-222, 68-11-226, 68-11-268 and 71-6-121.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed April 20, 2006; effective July 4, 2006. Amendment filed June 25, 2007; effective September 8, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed February 22, 2010; effective May 23, 2010.*

1200-08-29-.05 ADMISSIONS, DISCHARGE AND TRANSFERS.

(1) The agency only admits patients whose needs can be met by the services the agency provides.

(a) There shall be written policies and procedures and an organizational process that indicates employees with the necessary skill and training are assigned to assess the level and type of care/service required by patients referred to the agency, and to determine whether the patient is eligible for admission based on the agency's criteria and availability of services to meet the patient's needs. There shall also be a reasonable time frame in which the patient's eligibility for admission is assessed which takes into account the patient's service needs.

(b) There shall be a written policy that addresses the agency's compliance with federal, state, and local anti-discrimination laws in the selection of patients.

(2) Patients shall be transferred or referred to other organizations/agencies in the community when service needs are identified by staff or patients which cannot be met by the agency.

(3) The agency shall ensure that no person, on the grounds of race, color, national origin or handicap, will be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in the provision of any care or service of the agency. The agency shall protect the civil rights of patients under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, and 68-11-209.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed June 25, 2007; effective September 8, 2007.*

1200-08-29-.06 BASIC AGENCY FUNCTIONS.

(1) Patient Instruction. The agency shall have written guidelines relating to patient and/or caregiver training and education that includes at a minimum:

(Rule 1200-08-29-.06, continued)

(a) Financial responsibilities;

(b) Equipment use and maintenance;

(c) Patient rights and responsibilities;

(d) Emergency/back-up systems and trouble shooting procedures, if applicable; and

(e) How to contact the agency during regular business hours and after hours, if applicable.

(2) Infection Control. The agency shall have written policies and procedures relating to infection control. Employees shall consistently follow infection control procedures in the provision of care to the agency's patients. The written policies and procedures at a minimum must address standards and education of staff about:

(a) Infection control measures;

(b) Handwashing;

(c) Use of universal precautions and personal protective equipment;

(d) Appropriate cleaning and disinfection of reusable equipment and supplies; and,

(e) Disposal of regulated waste.

(3) In-Home Safety. The agency shall educate staff, patients, and caregivers about basic home safety related to the use of equipment delivered to the home. There shall be a procedure for reporting and documenting all incidents. There shall be an incident report form and identification of the types of situations that should be reported and documented.

(4) Equipment Management.

(a) Client-ready equipment shall be durable in nature, sanitized, and in proper working order. The agencyzation shall have clearly defined guidelines for the cleaning, storage, and transportation of client-ready equipment. These guidelines shall include, but are not limited to:

1. Separation of clean and unclean equipment;

2. Appropriate warehousing and tagging of equipment;

3. Use of appropriate cleaning agents, as directed by the manufacturer;

4. Routine maintenance of equipment; and

5. Separation of inoperative equipment.

(b) Agency employees shall be qualified to deliver, perform environmental assessments, set up, and demonstrate safe and proper use of all home medical equipment according to manufacturer's guidelines.

(c) Agency guidelines shall clearly define training, qualifications, and skills validation required by employees to perform routine maintenance and repairs of all home medical equipment. Routine maintenance, preventive maintenance, and repairs shall be performed according to manufacturer's guidelines. Agency employees shall only

(Rule 1200-08-29-.06, continued)

perform repair services within their respective areas of documented training and expertise. There shall be guidelines that define appropriate use of outside repair sources.

(d) The agency shall have written guidelines for accurate performance quality tracking of equipment in compliance with the FDA's Medical Device Tracking program and facilitate any recall notices sent by the manufacturer. These guidelines shall address the:

1. Immediate removal from equipment inventory;

2. Notification to the client; and

3. Exchange of equipment in the field.

(e) Disposition of recalled inventory shall be handled according to manufacturer's guidelines.

(f) Only durable medical equipment shall be returned to the company for processing. The agency shall have written policies and procedures for processing contaminated or soiled durable medical equipment and shall be in compliance with universal precautions. Guidelines shall specify the separation of dirty equipment from client ready equipment in the warehouse and delivery vehicles.

(5) Physical Location. Each parent and/or branch shall:

(a) Be located in Tennessee;

(b) Be staffed during normal business hours and have a working telephone;

~~(c) Be used for the dispensing, servicing, and storage of home medical equipment or related health care services;~~

(c) Be used for the dispensing, servicing, and storage of home medical equipment or be used to provide home medical equipment services;

(d) Meet all local zoning requirements; and

(e) Have all required current licenses and/or permits conspicuously posted in the agency.

(6) Additional Compliance Requirements. The agency shall comply with all federal, state, and local laws and regulations.

(a) Written policies and procedures shall be established and implemented by the agency regarding compliance with all applicable federal, state, and local laws and regulations.

(b) An agency providing prescribed wheeled mobility devices shall obtain a complete face-to-face written evaluation and recommendation by a qualified rehabilitation professional for consumers of prescribed wheeled mobility devices.

(c) The agency must have on staff, or contract with, a qualified rehabilitation professional.

(d) As of July 1, 2007, a one hundred eighty (180) day grace period shall be provided to agencies that provide prescribed wheeled mobility devices if the qualified rehabilitation

(Rule 1200-08-29-.06, continued)

professional on staff ceases to be employed and the agency has no other qualified rehabilitation professional on staff.

(e) All agencies making available prescribed wheeled mobility devices to consumers in Tennessee shall have a repair service department or a contract with a repair service department located in the state. The agency shall have a qualified technician with knowledge and capability of servicing the product provided to the consumer. As used in this section, "consumer" means an individual for whom a wheeled mobility device, manual or powered, has been prescribed by a physician, and required for use for a period of six (6) months or more.

(f) Delivery and final fitting of a wheeled mobility device shall be determined by a qualified rehabilitation professional. Exempt are wheeled mobility devices under category Group 1 Medicare codes.

(g) The agency shall comply with the following supplier standards:

1. Fill orders from its own inventory or inventory of other companies with which it has contracts to fill such orders, or fabricates or fits items for sale from supplies it buys under a contract;

2. Oversee delivery of items that the supplier ordered for the patient. The supplier is also responsible to assure delivery of large items to the patient;

3. Honor all warranties, express or implied, under applicable state law;

4. Answer questions or complaints about an item or use of an item that is sold or rented to the patient. If the patient has questions, the supplier will refer the patient to the appropriate carrier;

5. Maintain and repair directly, or through a service contract with another company, items it rents to a patient;

6. Accept returns for substantial medical equipment;

7. Provide the following disclosure information to the department:

(i) The identity of each person having a five percent (5%) or more ownership or controlling interest in the agency.

(ii) The identity of subcontractors in which the agency has a five percent (5%) or more ownership interest;

(iii) At the time such information is disclosed or at any time during the three (3) year period preceding the date such information is supplied, managing employees of the agency, persons having five percent (5%) or more ownership or controlling interest, and subcontractors in which the agency has five percent (5%) or more ownership interest must disclose any other entity providing items or services that receives payment under title XVIII; and

(iv) Managing employees of the agency, persons having five percent (5%) or more ownership or controlling interest, and subcontractors in which the agency has five percent (5%) or more ownership interest must disclose

(Rule 1200-08-29-.06, continued)

any penalties, assessments, or exclusions assessed against such person under Section 1128, 1128A, or 1128B of the Social Security Act;

8. Maintain general and product liability insurance; and

9. Disclose consumer information to each patient. This consists of a copy of the supplies standards to which it must conform.

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209, 68-11-226 and 68-11-304.* ***Administrative History:*** *Original rule filed August 24, 2000; effective November 7, 2000. Amendment filed October 11, 2007; effective December 25, 2007. Amendment filed December 23, 2009; effective March 23, 2010.*

1200-08-29-.07 RESERVED.

1200-08-29-.08 RESERVED.

1200-08-29-.09 RESERVED.

1200-08-29-.10 INFECTIOUS AND HAZARDOUS WASTE.

(1) Each agency must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous waste. These policies and procedures must comply with the standards of this rule and all other applicable state and federal regulations.

(2) The following waste shall be considered to be infectious waste:

(a) Waste human blood and blood products such as serum, plasma, and other blood components;

(b) All discarded sharps (including but not limited to, hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in patient care; and

(c) Other waste determined to be infectious by the agency in its written policy.

(3) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported prior to treatment and disposal.

(a) Contaminated sharps must be directly placed in leakproof, rigid and puncture-resistant containers which must then be tightly sealed.

(b) Infectious and hazardous waste must be secured in fastened plastic bags before placement in a garbage can with other household waste.

(c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.

(4) After packaging, waste must be handled, transported and stored by methods ensuring containment and preserving the integrity of the packaging, including the use of secondary containment where necessary.

(Rule 1200-08-32-.01, continued)

(66) Survey. An on-site examination by the Department to determine compliance with state and federal regulations.

(67) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(68) Treating Physician. The physician selected by or assigned to the patient and who has the primary responsibility for the treatment and care of the patient. Where more than one physician shares such responsibility, any such physician may be deemed to be the "treating physician."

(69) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(70) Water Treatment. The process of treating water used for dialysis purposes in order to maintain a continuous water supply that meets AAMI (Association for the Advancement of Medical Instrumentation) standards.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6, 2003. Amendment filed April 28, 2003; effective July 12, 2003. Amendments filed December 15, 2005; effective February 28, 2006. Amendment filed February 7, 2007; effective April 23, 2007. Amendment filed December 9, 2010 to have been effective March 9, 2011 was stayed for 28 days by the Government Operations Committee; new effective date March 29, 2011. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-32-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or any state, county or local governmental unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any renal dialysis clinic without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the renal dialysis clinic.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any renal dialysis clinic without having a license. A license shall be issued only to the person or persons named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the renal dialysis clinic.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form provided by the department.

(b) Each initial and renewal application for licensure shall be submitted with the fee of one thousand eighty dollars ($1,080.00). All fees submitted are nonrefundable. Any applicant who files an application during the fiscal year must pay the full license fee. A fee must be submitted for each facility at each site for which licensure is being sought.

(Rule 1200-08-32-.02, continued)

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be accepted for treatment to the renal dialysis clinic until a license has been issued. Applicants shall not hold themselves out to the public as being a renal dialysis clinic until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(a)(1) or as later amended, and all information required by the Commissioner.

(d) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(e) The applicant shall allow the end stage renal dialysis clinic to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purpose of licensing, the licensee of a renal dialysis clinic has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the renal dialysis clinic's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operation;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

6. The consolidation of a corporate facility owner with one or more corporations; or,

7. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

(Rule 1200-08-32-.02, continued)

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each end stage renal dialysis clinic shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure; and

2. the license fee provided in rule 1200-08-32-.02(2)(b).

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), T.C.A. §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed April 22, 2003; effective July 6,*

2003. Amendment file January 19, 2007; effective April 4, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

1200-08-32-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal statutes or rules and regulations;

(b) Violation of state statutes or the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the renal dialysis clinic;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the patients of the renal dialysis clinic; and

(e) Failure to renew the license.

(2) The board may consider all factors which it deems relevant, including but not limited to the following, when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patients in the facility;

(c) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(d) Any prior violations by the facility of statutes, rules or orders of the commissioner or the board.

(3) When a renal dialysis clinic is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of the receipt of the statement of deficiencies, the facility must return a plan of correction indicating the following:

(a) How the deficiency will be corrected;

(b) The date upon which each deficiency will be corrected;

(c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and

(d) How the corrective action will be monitored to ensure that the deficient practice does not recur.

(4) Failure to submit a plan of correction in a timely manner, a finding by the department that the plan of correction is unacceptable or failure to comply with the plan of correction, shall subject the renal dialysis clinic's license to possible disciplinary action.

(5) Any licensee or applicant for a license, aggrieved by a decision or action of the department or board, pursuant to this chapter, may request a hearing before the board. The proceedings

(Rule 1200-08-34-.01, continued)

(53) Surrogate. An individual, other than a consumer's agent or guardian, authorized to make a health care decision for the consumer.

(54) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the consumer.

(55) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-201, 68-11-202, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, and 68-11-1802.* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendments 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.*

1200-08-34-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any home care organization providing professional support services without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. The name of the agency shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the agency.~~

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any home care organization providing professional support services without having a license. A license shall be issued only to the person or persons named and only for the premises listed in the application for licensure. The name of the agency shall not be changed without first notifying the department in writing. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the home care organization providing professional support services.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Home care organizations authorized to provide only professional support services shall pay an annual fee of one thousand eighty dollars ($1,080.00), except that this annual fee shall be two hundred seventy dollars ($270.00) for (i) home care organizations that also pay a fee to be licensed by the Department of Mental Health and Developmental Disabilities; (ii) home care organizations owned and operated by therapists who pay a fee to be licensed under Title 63, Chapter 13 or 17; or (iii) home care organizations that are owned and controlled by another home care organization that pay an annual license fee of at least one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(Rule 1200-08-34-.02, continued)

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Consumers shall not be admitted to the agency until a license has been issued. Applicants shall not hold themselves out to the public as being an agency until the license has been issued. A license shall not be issued until the agency is in substantial compliance with these rules, including submission of all information required by T.C.A. §68-11-206(1) or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the agency providing professional support services.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the home care organization providing professional support services to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of an agency has the ultimate responsibility for the operation of the agency, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the agency's operation is transferred.

(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operation;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

6. The consolidation of a corporate facility owner with one or more corporations; or,

7. Transfers between levels of government.

(Rule 1200-08-34-.02, continued)

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(4) Renewal.

(a) In order to renew a license, each home care organization providing professional support services shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-34-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

(Rule 1200-08-34-.02, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History:*** *Original rule filed January 24, 2003; effective April 9, 2003. Amendment filed May 27, 2004; effective August 10, 2004. Amendment filed January 19, 2007; effective April 4, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-34-.03 DISCIPLINARY PROCEDURES.

(1) The Board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the agency or the consumer's home; or

(d) Conduct or practice found by the Board to be detrimental to the health, safety, or welfare of the consumers of the agency.

(2) The Board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the consumer of the agency;

(c) The conduct of the agency in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(d) Any prior violations by the agency of statutes, rules or orders of the Board.

(3) Inappropriate transfers are prohibited and violation of the transfer provisions shall be deemed sufficient grounds to suspend or revoke an agency's license.

(4) When an agency is found by the Department to have committed a violation of this chapter, the Department will issue to the agency a statement of deficiencies. Within ten (10) days of receipt of the statement of deficiencies the agency must return a plan of correction indicating the following:

(a) How the deficiency will be corrected;

(b) The date upon which each deficiency will be corrected;

(c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and

(d) How the corrective action will be monitored to ensure that the deficient practice does not recur.

(Rule 1200-08-35-.01, continued)

(61) Reasonably Available. Readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs. Such availability shall include, but not be limited to, availability by telephone.

(62) Registered Nurse (R.N.). A person currently licensed as such by the Tennessee Board of Nursing.

(63) Registered Record Administrator (RRA). A person currently registered as such by the American Medical Records Association.

(64) Shall or Must. Compliance is mandatory.

(65) State. A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(66) Stereotactic Procedure. An invasive technique utilized for precisely directing the tip of a delicate needle or beam of radiation in three planes using coordinates provided by medical imaging such as x-ray or CT scan in order to reach a specific location in the body, eg. tumor.

(67) Supervising Health Care Provider. The designated physician or, if there is no designated physician or the designated physician is not reasonably available, the health care provider who has undertaken primary responsibility for an individual's health care.

(68) Surrogate. An individual, other than a patient's agent or guardian, authorized to make a health care decision for the patient.

(69) Transfer. The movement of a patient at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice.

(70) Treating Health Care Provider. A health care provider who at the time is directly or indirectly involved in providing health care to the patient.

(71) Universal Do Not Resuscitate Order. A written order that applies regardless of treatment setting and that is signed by the patient's physician which states that in the event a patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(72) Vascular Embolization. Therapeutic introduction of various substances into the circulation to occlude vessels, either to arrest or prevent hemorrhaging, to devitalize a structure, tumor or organ by occluding its blood supply or to reduce blood flow to an arteriovenous malformation.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-211, 68-11-216, 68-11-224 and 68-11-1802.* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed January 3, 2012; effective April 2, 2012.*

1200-08-35-.02 LICENSING PROCEDURES.

~~(1) No person, partnership, association, corporation, or state, county, or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain in the State of Tennessee any Outpatient Diagnostic Center as defined, without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30. The license shall be posted in a conspicuous place in the Outpatient Diagnostic Center.~~

(Rule 1200-08-35-.02, continued)

(1) No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any outpatient diagnostic center as defined, without having a license. A license shall be issued only to the person or persons named and only for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the outpatient diagnostic center.

(2) In order to make application for a license:

(a) The applicant shall submit an application on a form prepared by the department.

(b) Each applicant for a license shall pay an annual license fee in the amount of one thousand eighty dollars ($1,080.00). The fee must be submitted with the application and is not refundable.

(c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Patients shall not be admitted to the Outpatient Diagnostic Center until a license has been issued. Applicants shall not hold themselves out to the public as being an Outpatient Diagnostic Center until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations including submission of all information required by Tennessee Code Annotated § 68-11-206(l), or as later amended, and all information required by the Commissioner.

(d) The applicant must prove the ability to meet the financial needs of the facility.

(e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.

(f) The applicant shall allow the outpatient diagnostic center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3) Each Outpatient Diagnostic Center, when issued a license, shall be classified according to the type of services rendered or category of patients served. The Outpatient Diagnostic Center shall confine its services to those described in its license and shall advertise only the services which it is licensed to perform. The classification shall be listed on the license.

(4) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.

(a) For the purposes of licensing, the licensee of an Outpatient Diagnostic Center has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of Outpatient Diagnostic Center operations is transferred.

(Rule 1200-08-35-.02, continued)

(b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the facility's legal title;

2. Lease of the facility's operation;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;

4. One partnership is replaced by another through the removal, addition or substitution of a partner;

5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

6. The consolidation of a corporate facility owner with one or more corporations; or,

7. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Two (2) or more corporations merge and the originally-licensed corporation survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government; or,

5. Corporate stock transfers or sales, even when a controlling interest.

(e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(5) Renewal.

(a) In order to renew a license, each outpatient diagnostic center shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.

(Rule 1200-08-35-.02, continued)

~~(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late.~~

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:

1. a completed application for licensure;

2. the license fee provided in rule 1200-08-35-.02(2)(b); and

3. any other information required by the Health Services and Development Agency.

(d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, § 68-11-209(a)(1), §68-11-210, 68-11-216, Chapter 846 of the Public Acts of 2008, §1, T.C.A. §68-11-206(a)(5) [effective January 1, 2009].* ***Administrative History****: Original rule filed October 26, 2005; effective January 9, 2006. Amendment filed January 19, 2007; effective April 4, 2007. Amendment filed July 18, 2007; effective October 1, 2007. Public necessity rules filed April 29, 2009; effective through October 11, 2009. Emergency rules filed October 9, 2009; effective through April 7, 2010. Amendment filed September 24, 2009; effective December 23, 2009.*

1200-08-35-.03 DISCIPLINARY PROCEDURES.

(1) The board may suspend or revoke a license for:

(a) Violation of federal or state statutes;

(b) Violation of the rules as set forth in this chapter;

(c) Permitting, aiding or abetting the commission of any illegal act in the Outpatient Diagnostic Center;

(d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the patients of the Outpatient Diagnostic Center; and

(e) Failure to renew license.

(2) The board may consider all factors that it deems relevant, including but not limited to the following when determining sanctions:

(a) The degree of sanctions necessary to ensure immediate and continued compliance;

(b) The character and degree of impact of the violation on the health, safety and welfare of the patients in the facility;

(Rule 1200-08-36-.01, continued)

(39) "Surrogate" means an individual, other than a resident's agent or guardian, authorized to make a health care decision for the resident pursuant to T.C.A. § 68-11-1806.

(40) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment. Traumatic brain injury includes open and closed head injuries and may result in seizures, and/or mild, moderate, or severe impairment in one (1) or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. Such term does not include brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes, infectious disease not of a degenerative nature, brain tumor, toxic chemical or drug reaction.

(41) "Treating health care provider" means a health care provider directly or indirectly involved in providing health care to a resident at the time such care is needed by the resident.

(42) "Universal Do Not Resuscitate Order" means a written order that applies regardless of the treatment setting and that is signed by the patient's physician which states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted.

(43) "Ventilator dependent" means using an apparatus designed to control air that is breathed through it to either intermittently or continuously assist or control pulmonary ventilation, without which, the patient would not be able to breathe independently.

Authority: *T.C.A. §68-11-201 and 68-11-209.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

1200-08-36-.02 LICENSURE AND RENEWAL.

(1) Licensure. An applicant for an ACH license shall submit the following to the Board office:

(a) A completed application on a form approved by the Board;

(b) Nonrefundable application fee;

(c) The requirements contained in T.C.A. §68-11-206(a)(1) and (2);

(d) Demonstration of the ability to meet the financial obligations of the ACH with a financial statement prepared by a certified public accountant;

(e) A copy of a local business license (if one is required by the locality);

(f) A copy of any and all documents demonstrating the legal status of the business organization that owns the ACH. If the applicant is a corporation or a limited liability company the applicant must submit a certificate of good standing;

(g) Proof of liability insurance; and

(h) Any other documents or information requested by the Board.

(2) Before a license is granted, the applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

(Rule 1200-08-36-.02, continued)

(3) Before a license is granted, the applicant shall submit to an inspection conducted by Department of Health inspectors to ensure compliance with all applicable laws and rules.

(4) If the Board determines that a license for an ACH shall not be granted, it shall notify the applicant. The decision of the Board shall be final.

(5) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an applicant has been denied a license or has had a license disciplined or has attempted to avoid the survey and review process.

~~(6) Renewal. ACH licenses expire annually on June 30 and must be renewed by that date.~~

(6) Renewal. ACH licenses shall expire and become invalid annually on the anniversary date of their original issuance and must be renewed by that date.

(a) In order to successfully renew a license, a licensee shall submit a completed renewal application with the applicable fee to the Board office. Department inspectors will periodically inspect each ACH to determine its compliance with these rules and regulations. If the inspectors find deficiencies, the licensee shall submit an acceptable corrective action plan and shall remedy the deficiencies.

~~(b) Should the licensee fail to renew its license prior to the expiration date, yet within sixty (60) days after the expiration date, the licensee shall pay a late renewal penalty fee of one hundred dollars ($100.00) per month for each month or fraction of a month that renewal is late~~.

(b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars ($100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, the licensee shall reapply for a license by submitting the following to the Board office:

1. A completed application for licensure; and

2. The license fee provided in rule 1200-08-36-.03(1).

(d) Upon reapplication, the licensee shall submit to an inspection of the ACH by Department of Health inspectors.

(7) The Board shall issue a license only for the licensee and the location designated on the license application. If an ACH moves to a new location, it shall obtain a new license and submit to an inspection of the new building before admitting residents.

(8) A separate license shall be required for each ACH when more than one ACH is operated by an adult care home provider.

(9) Before a second license is granted to an adult care home provider the applicant shall:

(a) Operate a licensed ACH for a period of at least one (1) year;

(b) Submit to an annual licensure inspection by Department of Health inspectors;

(Rule 1200-08-36-.02, continued)

(c) Have no findings of noncompliance resulting in penalties, suspensions or other disciplinary actions; and

(d) Submit a separate application to the Board.

(10) Before any additional licenses are granted to an adult care home provider the applicant shall:

(a) Operate two (2) licensed ACHs for a consecutive period of at least one (1) year;

(b) Submit both ACHs to an annual licensure inspection by Department of Health inspectors;

(c) Have no findings of noncompliance resulting in penalties, suspensions or other disciplinary actions at either ACH; and

(d) Submit a separate application to the Board.

(11) The Board may grant an exception to the one-at-a-time license requirement for Level 2 ACHs for nursing facilities; assisted care living facilities and providers who specialize in the delivery of ventilator services, or in the delivery of residential and/or medical services to persons who are ventilator dependent; and providers who specialize in the delivery of residential and/or rehabilitation services to persons with traumatic brain injury when such nursing facility, assisted care living facility or provider has demonstrated expertise in delivering the specialized services necessary to the specific population that would be served by the licensed ACH.

(12) Any admission in excess of five (5) residents is prohibited.

(13) Change of Ownership.

(a) A change of ownership occurs whenever the ultimate legal authority for the responsibility of the ACH's operation is transferred, including a change in the legal structure by which the ACH is owned and operated and/or ownership of the preceding or succeeding entity changes.

(b) A licensee shall notify the Board's administrative office of a proposed change of ownership at least thirty (30) days prior to its occurrence by submitting the following to the Board office:

1. A completed change of ownership application on a form approved by the Board which includes all information required by rule 1200-08-36-.02(1)(a);

2. Nonrefundable application fee;

3. Demonstration of ability to meet the financial obligations of the ACH with a financial statement prepared by a certified public accountant;

4. A copy of a local business license (if one is required by the locality);

5. A copy of any and all documents demonstrating the formation of the business organization that owns the ACH;

6. The bill of sale and/or closing documents indicating the transfer of operations of the business entity;

7. Comprehensive business plan for the first two (2) years of operation.

(Rule 1200-08-36-.02, continued)

8. Proof of liability insurance; and

9. Any other documents or information requested by the Board.

(c) Transactions constituting a change of ownership include, but are not limited to, the following:

1. Transfer of the ACH's legal title;

2. Lease of the ACH's operations;

3. Dissolution of any partnership that owns, or owns a controlling interest in, the ACH;

4. The removal, addition or substitution of a partner;

5. Removal of the general partner or general partners, if the ACH is owned by a limited partnership;

6. Merger of an ACH owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7. The consolidation of a corporate ACH owner with one or more corporations; or

8. Transfers between levels of government.

(d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;

2. Merger of two (2) or more corporations where one (1) of the originally-licensed corporations survives;

3. Changes in the membership of a non-profit corporation;

4. Transfers between departments of the same level of government;

5. Corporate stock transfers or sales, even when a controlling interest.

6. Sale/lease-back agreements if the lease involves the ACH's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner; or

7. Management agreements if the owner continues to retain ultimate authority for the operation of the ACH; however, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(14) Qualification and Training Requirements.

(a) Qualifications for a Level 2 ACH serving ventilator dependent residents.

(Rule 1200-08-36-.02, continued)

1. A Level 2 adult care home provider serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents or shall employ a resident manager who meets the qualifications specified in Rule 1200-08-36-.02(14)(a)2.

2. A Level 2 resident manager serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents.

3. A substitute caregiver for a Level 2 ACH serving ventilator dependent residents shall be licensed as a physician, nurse practitioner, registered nurse or respiratory therapist trained and experienced in the care of ventilator dependent residents and shall demonstrate competency in caring for ventilator dependent residents.

(b) Qualifications for a Level 2 adult care home provider serving residents with traumatic brain injury.

~~1. A Level 2 adult care home provider serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury, or shall employ a resident manager who meets the qualifications specified in Rule 1200-08-36-.02(14)(b)2.~~

1. A Level 2 adult care home provider serving residents with traumatic brain injury shall hold a national certification by the Academy of Certified Brain Injury Specialists as a certified brain injury specialist (CBIS) or be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury, or shall employ a resident manager who meets the qualifications specified in Rule 1200-08-36-.02(14)(b)2.

~~2. A Level 2 resident manager serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury.~~

2. A Level 2 resident manager serving residents with traumatic brain injury shall hold a national certification by the Academy of Certified Brain Injury Specialists as a certified brain injury specialist (CBIS) or be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care of and rehabilitation of residents with traumatic brain injury and shall demonstrate competency in caring for persons with traumatic brain injury.

~~3. A substitute caregiver for a Level 2 ACH serving residents with traumatic brain injury shall be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury and shall demonstrate competency in caring for persons with traumatic brain injury.~~

(Rule 1200-08-36-.02, continued)

3. A substitute caregiver for a Level 2 ACH serving residents with traumatic brain injury shall hold a national certification by the Academy of Certified Brain Injury Specialists as a certified brain injury specialist (CBIS) or be licensed as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional or licensed mental health professional trained and experienced in the care and rehabilitation of residents with traumatic brain injury and shall demonstrate competency in caring for persons with traumatic brain injury.

(c) Training. The ACH provider is responsible for the supervision, training and overall conduct of resident managers, substitute caregivers and adult care home staff as it relates to their job performance and responsibilities. The ACH provider shall:

1. Train all staff to meet the routine and emergency needs of residents;

2. Orient all staff to the home including the location of any fire extinguishers; demonstration of evacuation procedures; location of residents' records; location of telephone numbers for the residents' physicians and other emergency contacts; location of medications and keys for medication cabinets; instructions for caring for each resident and delegation by a registered nurse for nursing tasks if applicable.

3. Train resident managers, substitute caregivers, and staff on the health care tasks that can be administered through self administration.

(15) Continuing Education. All adult care home providers, resident managers and substitute caregivers shall complete annually twelve (12) hours of continuing education related to the following topics:

(a) Care of elderly persons;

(b) Care of persons with disabilities;

(c) Business operations of ACHs; and

(d) State rules and regulations for ACHs.

(16) The licensee shall immediately notify the Board's administrative office in the event of an absence or change of resident manager due to serious illness, incapacity, death or resignation of its named resident manager.

Authority: *T.C.A. §§68-11-206 and 68-11-209.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2010; effective April 28, 2011.*

1200-08-36-.03 FEES.

(1) Each ACH, except those operated by the United States of America or the State of Tennessee, making application for licensure under this chapter shall pay annually to the Board's administrative office, a fee in the amount of $1,080.00.

Authority: *T.C.A. §§ 68-11-209 and 68-11-216.* ***Administrative History:*** *Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.*

1200-08-36-.04 REGULATORY 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)
Dr. Larry Arnold	X				
Sylvia Burton	X				
Betsy Cummins	X				
Alex Gaddy	X				
Robert Gordon	X				
Jennifer Gordon-Maloney	X				
Luke Gregory	X				
Janice Hill	X				
Betty Hodge	X				
Dr. Roy King				X	
Carissa Lynch	X				
Annette Marlar	X				
John Marshall				X	
David Rhodes	X				
Jim Shulman	X				
Bobby Wood	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Division of Health Care Facilities (board/commission/ other authority) on 05/01/2013 (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: 02/28/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 05/01/2013

Date: December 4, 2013

Signature: DEL

Name of Officer: Diona E. Layden

Title of Officer: Deputy General Counsel
Department of Health

Subscribed and sworn to before me on: 12-4-13

Notary Public Signature: Susanne Mellowd.

My commission expires on: MY COMMISSION EXPIRES APRIL 19, 2017

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-10-13
Date

Department of State Use Only

Filed with the Department of State on: 12/16/13

Effective on: 3/16/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Commerce and Insurance
DIVISION:	State Board of Accountancy
SUBJECT:	Fees; Licensure and Examination
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 62-1-105
EFFECTIVE DATES:	March 11, 2014 through June 30, 2014
FISCAL IMAPCT:	Minimal.
STAFF RULE ABSTRACT:	The rules reduce the biennial renewal fee for individual CPAs by $ 5.00 per year (which is $ 10.00 per two-year renewal period), resulting in a biennial license renewal fee of $ 110.00 (reduced from the current $ 120.00 fee) for individual CPAs. The rules initial applications for licensure as a CPA to remain valid for one year from the date of application for initial licensure as a CPA. The rules allow CPA exam scores to be valid for 10 years from the date the first passing score on any section of the CPA exam is attained by an applicant. The rules authorize the Board to waive this requirement for good cause shown by the applicant. The rules clarify that the Board has no jurisdiction over fee disputes between a client and a licensee. However, the Board may move forward with a complaint which mentions a fee dispute if other potential violation(s) of the law and rules are alleged. The rules set forth the scope of services that may be performed by a CPA whose license is inactive. Additionally, the rules provide that a licensee who is 65 years old or older whose license is in inactive status shall not be required to pay the biennial renewal fee required of active licensees.

The rules replace all instances of the word “lapsed” with the word “expired”. This change is required to ensure uniformity and consistency in the rules because the Board previously voted to add a definition for “expired license” to the rules that appears in other rules.

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 submitted in writing or presented orally at the rulemaking hearing.

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.

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

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

There will be no overlap, duplication, or conflict with other federal, state or local governmental rules.

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

The rules are clear in purpose and intended execution. The implementation of the proposed rule change will increase clarity and conciseness and decrease ambiguity in the rules as a whole.

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

The proposed rule change has no impact on small businesses, so there are no issues regarding compliance and reporting requirements.

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

The proposed rule change has no impact on small businesses, so there are no issues regarding compliance and reporting requirements.

5. Consolidation or simplification of compliance or reporting requirements:

There are no new compliance and reporting requirements as a result of this amendment.

6. Performances standards for small businesses:

There are no performance standards for small businesses as a result of this amendment.

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

The Board has determined that these amendments do not place an undue burden on individuals. If anything, the proposed reduction in the licensing fee for individual CPAs should make it easier for CPAs to practice in Tennessee.

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 changes are not projected to have any impact on local governments.

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For Department of State Use Only

Sequence Number: 12-06-13
Rule ID(s): 5612-5614
File Date: 12/11/13
Effective Date: 3/11/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee State Board of Accountancy
Division:	Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person:	Chris Whittaker
Address:	500 James Robertson Parkway; Nashville, TN
Zip:	37243
Phone:	(615) 741-3072
Email:	Chris.Whittaker@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**
0020-01	Licensing and Registration Requirements
Rule Number	**Rule Title**
0020-01-.04	Fees
0020-01-.05	Applications
0020-01-.06	Examinations

Chapter Number	**Chapter Title**
0020-04	Disciplinary Action and Civil Penalties
Rule Number	**Rule Title**
0020-04-.03	Grounds for Discipline Against Licensees

Chapter Number	**Chapter Title**
0020-05	Continuing Education
Rule Number	**Rule Title**
0020-05-.03	Basic Requirements

Chapter 0020-01
Board of Accountancy, Licensing and Registration Requirements

Amendments

Rule 0020-01-.04(1) Fees is amended by amending subparagraph (c) to read as follows:

~~(c)~~	~~Renewal of certificate or registration~~	~~($120.00) biennially~~ ~~Sixty dollars ($60.00) per year or one hundred twenty dollars~~
(c)	Renewal of certificate or registration	One hundred ten dollars ($110.00) biennially

Authority: T.C.A. §§ 62-1-105 and 62-1-107.

Rule 0020-01-.05 Applications is amended by amending paragraph (3) to read as follows:

(3) A candidate who fails to appear for the examination shall forfeit all fees charged for both the application and the examination. All applications for initial licensure shall expire one (1) year from the date of the application for initial licensure.

Authority: T.C.A. §§ 62-1-105 and 62-1-106.

Rule 0020-01-.06 Examinations is amended by adding a new paragraph (11) to read as follows:

(11) All CPA Exam scores shall expire ten (10) years after the first passing score is earned. However, upon written request by the applicant, the Board may, in its sole discretion, grant an extension of the score expiration date for good cause shown.

Authority: T.C.A. §§ 62-1-105 and 62-1-106.

Chapter 0020-04
Board of Accountancy, Disciplinary Action and Civil Penalties

Amendments

Rule 0020-04-.03 Grounds for Disciplinary Action Against Licensees is amended by adding a new paragraph (3) to read as follows:

(3) The Board has no jurisdiction over fee disputes between a licensee and a client. The Board shall not seek to impose discipline against a licensee solely on the basis of a dispute between the licensee and the client regarding payment of fees by the client for professional services rendered by the licensee.

Authority: T.C.A. §§ 62-1-105, 62-1-111, 62-1-113, and 62-1-117.

Chapter 0020-05
Board of Accountancy, Continuing Education

Amendments

Rule 0020-05-.03(3) Basic Requirements is amended by amending subparagraphs (a) and (b) and by adding new subparagraphs (c), (d), (e), and (f) to read as follows:

~~(a) Licensees granted such an exemption must place the word "inactive" adjacent to their CPA title or PA title when used in any written form with the exception of their certificate or registration;~~

(a) For purposes of disciplinary action, the board shall retain jurisdiction over all certificate holders whose license is in inactive status.

~~(b) Individuals exempt under this paragraph must complete eighty (80) hours of CPE in the areas of accounting, accounting ethics, attest, taxation, or management advisory services, during the twenty-four (24) month period preceding the date of their request for the reactivation of their license. The CPE hours required to reactivate a license may also be used as credit toward the renewal requirement so long as those hours are completed within the two (2) year window prior to the licensee's next December 31 renewal date.~~

(b) Certificate holders who are granted inactive status by the board shall be required to place the word "inactive" adjacent to their CPA or PA designation when using such designation for any lawful purpose, including, but not limited to use of such designation on any business card, letterhead, resume, or biography.

(c) A certificate holder who has been granted inactive status may not for compensation perform or offer to perform for the public, including the providing of any accounting service from a licensed accounting firm, any of the following services: any accounting or auditing service which involves the issuance of reports on financial statements (including opinions, reviews, compilations, or attest engagements), any consulting engagement which would constitute the attest function, or furnishing advice on tax matters.

(d) A certificate holder who has been granted inactive status may perform the services set forth in (c) above if:

(1) the services are provided without compensation to the certificate holder;

(2) the services are performed solely for the certificate holder's employer and such employer is not a licensed accounting firm; or,

(3) the certificate holder does not use the CPA or PA designation in association with his or her name while providing such lawful services.

(e) A certificate holder who is 65 years old or older and possesses a certificate in inactive status shall not be required to pay the biennial license renewal fee required for licensees as set forth in these rules.

(f) Certificate holders who are granted inactive status must complete eighty (80) hours of CPE in the areas of accounting, accounting ethics, attest, taxation, or management advisory services during the twenty-four (24) month period preceding the date of their request for reactivation of their license. The CPE hours required to reactivate a license may also be used as credit toward the renewal requirement so long as those hours are completed within the two (2) year window prior to the licensee's next December 31 renewal date.

Authority: T.C.A. §§ 62-1-105, 62-1-107, and 62-1-111.

Rule 0020-05-.03 Basic Requirements is amended by amending paragraph (6) to read as follows:

(6) An applicant for renewal whose license has ~~lapsed~~ expired as set forth in ~~Rule 0020-01-.08(8)~~ Rule 0020-01-.08(7) shall complete no less than eighty (80) hours of CPE in the areas of accounting, accounting ethics, attest, taxation, or management advisory services~~,~~ during the six (6) month period preceding the date of reapplication. The CPE hours required to reinstate a ~~lapsed~~ an expired license are considered penalty hours and may not be used to offset the CPE hours required for renewal of a license.

Authority: T.C.A. §§ 62-1-105, 62-1-107, and 62-1-111.

* 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)
Trey Watkins	X				
Casey Stuart	X				
Bill Blaufuss	X				
Vic Alexander	X				
Troy Brewer	X				
Jennifer Brundige	X				
Stephen Eldridge	X				
Henry Hoss	X				
Gabe Roberts	X				
Don Royston	X				
Stan Sawyer				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Accountancy on 07/19/2013, 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: *05/23/13*

Rulemaking Hearing(s) Conducted on: (add more dates). *07/19/13*

Date: 08/15/2013

Signature:

Name of Officer: Christopher R. Whittaker, Esq.

Title of Officer: Asst. General Counsel, Tennessee Dept. of Commerce & Insurance

Subscribed and sworn to before me on: 8-15-13

Notary Public Signature:

My commission expires on: 5-15-15

PATRICIA A. TURNER STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON 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.

Robert E. Cooper, Jr.
Attorney General and Reporter

11-4-13
Date

Department of State Use Only

Filed with the Department of State on: 12/11/13

Effective on: 3/11/14

Tre Hargett
Secretary of State

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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Department of Intellectual and Developmental Disabilities
SUBJECT:	Methodologies for Rate Setting
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 33-1-309(d)
EFFECTIVE DATES:	March 12, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	A rate methodology must be established by rule to set payment rates for services offered and payments received by providers. Under the federal lawsuit, People First of Tennessee vs. Arlington Developmental Center, an "Arlington Exit Plan" has been developed in an attempt to resolve the concerns of the Plaintiffs. The Arlington Exit Plan includes two of these new services which are incorporated into this rule, Intensive Behavioral Residential Model and Semi-Independent Living. According to the Department, this rule must be amended to include these new services in order to be in compliance with the requirements of the Arlington Exit Plan.

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.

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)

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 changes identify three new services. Two of these, Semi-independent Living and Intensive Behavioral Residential, are new services and are anticipated to have little impact on the provider community. The third, In Home Day Services, takes a previously available service that could be provided in the home under certain circumstances and requires that utilization be specifically identified. In addition to service utilization, the transportation component, which will not be provided in the home environment, was removed from the rate.

§ 4-5-228. Statement of financial impact

The result would be minimal since the estimated impact is < $500,000 and less than 2% of DIDD's annual budget.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 12-08-13
Rule ID(s): 5615
File Date: 12/12/13
Effective Date: 3/12/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Intellectual and Developmental Disabilities
Division:	
Contact Person:	Richard R. Prybilla
Address:	161 Rosa L. Parks Blvd., Nashville, TN
Zip:	37243
Phone:	615-253-2025
Email:	Richard.R.Prybilla@tn.gov

Revision Type (check all that apply):

___ Amendment
X 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**
0465-01-02	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0465-01-02-.01	Purpose
0465-01-02-.02	Scope
0465-01-02-.03	Definitions
0465-01-02-.04	Rate Setting Methodologies for Medical, Residential Services

Chapter Number	**Chapter Title**
0465-01-02	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0465-01-02-.05	Rate Setting Methodologies for Intensive Behavioral Residential Services
0465-01-02-.06	Rate Setting Methodologies for Residential and Supported Services
0465-01-02-.07	Rate Setting Methodologies for Semi-Independent Living Services
0465-01-02-.08	Special Needs Adjustments

Chapter Number	**Chapter Title**
0465-01-02	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0465-01-02-.09	Rate Setting Methodologies for Day Services
0465-01-02-.10	Rate Setting Methodologies for Day Services- In Home Day
0465-01-02-.11	Rate Setting Methodologies for Clinical Services
0465-01-02-.12	Rate Setting Methodologies for Respite and Personal Assistance Services

Chapter Number	Chapter Title
0465-01-02	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0465-01-02-.13	Rate Setting Methodologies for Dental Services
0465-01-02-.14	Rate Setting Methodologies for Personal Emergency Response Systems
0465-01-02-.15	Rate Setting Methodologies for Specialized Medical Equipment and Supplies
0465-01-02-.16	Rate Setting Methodologies for Environmental Modifications

Chapter Number	Chapter Title
0465-01-02	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0465-01-02-.17	Rate Setting Methodologies for Vision Services
0465-01-02-.18	Rate Setting Methodologies for Independent Support Coordination
0465-01-02-.19	Rate Setting Methodologies for Services Funded Exclusively by the State [Non-Waiver, State Funded (NWSF) Services]

RULE
OF
DEPARTMENT OF ~~MENTAL HEALTH~~ INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ~~DIVISION OF MENTAL RETARDATION SERVICES~~

CHAPTER ~~0940-04-03~~
METHODOLOGY UTILIZED TO DETERMINE PAYMENTS TO SERVICE PROVIDERS (RATE STRUCTURE)

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~~0940-04-03-.05 Rate Setting Methodologies for Residential and Supported Living~~
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~~0940-04-03-.17 Rate Setting Methodologies for Services Funded Exclusively by the State [Non-Waiver State Funded (NWSF) Services]~~

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0465-01-02-.01 ~~0940-04-03-.01~~ PURPOSE.

This chapter establishes a rate setting methodology for Residential Day and other Services that are provided through the Department of ~~Finance and Administration Division of~~ Intellectual and Developmental Disabilities.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-302 & 303; 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and*

October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.Emergency rule filed____; effective through _____.*

0465-01-02.02 ~~0940-04-03-.02~~ S C O P E

These rules apply to the procedures and practices used to establish rates of payment for Residential, Day and other services acquired by the Department of Finance and Administration – Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively. All of the rate methodologies set forth in sections 0465-01-02-.04 through 0465-01-02-.18 of these rules are used to determine payments to service providers set forth in these rules are subject to the availability of appropriations established in the TennCare budget for home and community based services provided under the State's approved HCBS waivers for individuals with intellectual disabilities and may be adjusted by the Department or by TennCare as necessary to assure that expenditures for these services are within and do not exceed the budgeted amount for waiver services that year established in the TennCare budget for home and community based services provided under the State's approved HCBS waivers for individuals with intellectual disabilities and may be adjusted by the Department or by TennCare as necessary to assure that expenditures for these services are within and do not exceed the budgeted amount for waiver services that year. ~~These rules apply to the procedures and practices used to establish rates of payment for Residential, Day and other services acquired by the Department of Finance and Administration – Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; and also the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ D I D D federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.03 ~~0940-04-03-.03~~ DEFINITIONS.

As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:

(1) "Administrative Costs" are the allowable percentage of the service rate that includes, for example, the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.

(2) "Direct Service Costs" are the costs for direct service such as staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, training, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.

(3) "Full Time Equivalent (FTE)" means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) annual days of payment to cover service recipient absences.

(4) "Non-Direct Program Costs" is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.

(5) "Rate" is the amount paid per person to approved service providers for each unit of a DIDS service that is provided. A rate unit may be a portion of an hour, a day, a month, an item or a job, depending on the type of service.

(6) "Rate Levels" are the series of rates for residential, day and other services that are based on a service recipient's needs and the size or site of the service setting.

(7) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgment of estimated hours of direct support staff assistance required for individuals at each rate level.

(8) "Rate Setting Methodology" is the manner in which the rates for residential, day and other services are calculated or determined.

(9) "Special Needs Adjustment" is an additional payment that may, within the discretion of the Division and subject to resource availability, be added to the residential rate for an individual in appropriate circumstances, e.g. periodic crisis that require additional support.

(10) "Uniform Cost Report" is a report relating to costs and/or operating expenses/revenues completed by providers that is submitted as required by the Division of Intellectual Disabilities Services. The Uniform Cost Report is completed and transmitted in the manner, format and timeframe required by the Division.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity*

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0465-01-02-.04 ~~0940-04-03-.04~~ RATE SETTING METHODOLOGIES FOR MEDICAL, RESIDENTIAL SERVICES.

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per day.

2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515;*

T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. ***Administrative History:*** *Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.05 ~~0940-04-03-.05~~ RATE SETTING METHODOLOGIES FOR INTENSIVE BEHAVIORAL RESIDENTIAL SERVICES.

Includes Behavioral Analyst Services.

(1) For residential services that are shift staffed, staff coverage is calculated as follows:

(a) 168 hours per week---7 days at 24 hours per day.

(b) The unit of service for these residential services is a day.

(2) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

(a) Allowable hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

(b) Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

(c) Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.

(d) Add together the hourly cost for direct support staff and the hourly cost for supervision.

(e) Multiply the result from Step four by one and the % allowed for non-direct program costs.

(f) Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

(g) Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.

(h) Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

(i) Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(3) Calculation for the daily rate per person is:

(a) For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

(b) Divide the result of Step (a) by the facility size.

(c) Multiply the result of Step (b) by 385 (to allow for 20 absent days).

(d) Divide the result of Step (c) by 365 to arrive at the program costs.

(e) Add an allowance for BA services to the program component to the step above (d)

to determine the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare.* Tennessee Public Chapter 1100, June 23, 2010.
Administrative History: Emergency rule filed____; effective through _____.

0465-01-02-.06 ~~0940-04-03-.05~~ RATE SETTING METHODOLOGIES FOR RESIDENTIAL AND SUPPORTED LIVING.

(~~2~~1) Residential Habilitation and Supported Living (Shift-Staffed) Model.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per day is equal to one week

2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

2. Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

(2) Supported Living-Companion Model

(a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the companion room and board allowance.

3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

4. Add costs in steps one through three.

5. Multiply the result of step four by one and the % for non-direct program costs.

6. Multiply the result of step five by one and the % for administrative costs.

7. Divide the result of step six by 365.

8. Multiply the result of step seven by 385 (to allow for 20 absent days).

9. Divide the result of step eight by 365 to arrive at the daily rate.

(3) Family Model for Residential Services

(a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.

4. Add costs in steps 1 through 3 above.

5. Multiply the result of step four by one and the percent for non-direct program costs.

6. Multiply the result of step five by one and the percent for administrative costs.

7. Divide the result of step six by 365 days.

8. Multiply the result of step seven by 385 days (to allow for 20 absent days).

9. Divide the result of step eight by 365 days to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for*

provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.07 ~~0940-04-03-.07~~ **RATE SETTING METHODOLOGIES FOR SEMI-INDEPENDENT LIVING SERVICES.**

(1) Calculation for Semi-Independent Living Services is:

(a) The unit of service for these residential services is a month.

(b) Average monthly hours of service were used to calculate the rate.

(c) The average monthly hours are inclusive of on-call services.

(d) The PA quarter hour reimbursement was used in determining the monthly rate.

(2) Take amount in Step above and add an allowance for transportation costs to determine the maximum rate.

Authority: Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. ***Administrative History****: Emergency rule filed____; effective through _____ .*

0465-01-02-.08 ~~0940-04-03-.06~~ **SPECIAL NEEDS ADJUSTMENTS.**

(1) An adjustment up to an additional thirty-five dollars ($35.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.

(2) An adjustment of twenty dollars ($20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.

(3) This adjustment may be used for additional staff coverage or higher wages for staff.

(4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:

(a) The individual has a history of significant behavioral or psychiatric problems such as DSM-IV diagnosis, violent acting out, serious self-injury or danger to others that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.

(b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.

(c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.09 ~~0940-04-03-.07~~ RATE SETTING METHODOLOGIES FOR DAY SERVICES.

(1) The unit of service is a day.

(2) For day services staff coverage is calculated for 6 hours per day for 243 days per year.

(3) The cost models are calculated with the following direct service cost factors:

(a) Non-direct program costs at the allowable percentage.

(b) Administrative costs at the allowable percentage.

(c) Transportation costs per day per person.

(d) Twenty (20) leave days.

(4) Rate level factor based on service setting and of need of the individual.

(5) Day Service settings include day habilitation facilities, community locations, and community employment locations.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been*

effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.

0465-01-02-.10 ~~0940-04-03-.10~~ **RATE SETTING METHODOLOGIES FOR DAY SERVICES – IN HOME DAY.**

(1) Calculation for day services – in home day per person is:

(a) The unit of service is a day.

(b) For day services staff coverage is calculated for 6 hours per day for 243 days per year.

(2) The cost models are calculated with the following direct service cost factors:

(a) Non-direct program costs at the allowable percentage.

(b) Administrative costs at the allowable percentage.

(c) Twenty (20) leave days.

(d) Rate level factor based on service setting and the need of the individual.

(e) This day service setting is limited to the home and has no transportation cost included.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Emergency rule filed____; effective through _____.*

0465-01-02-.11 ~~**0940-04-03-.08**~~ **RATE SETTING METHODOLOGIES FOR CLINICAL SERVICES.**

(1) The unit for therapy and nursing services is a quarter hour.

(2) The Unit for behavioral services is one quarter (1/4) of an hour.

(3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ D I D D federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June*

30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.

0465-01-02-.12 ~~0940-04-03-.09~~ RATE SETTING METHODOLOGIES FOR RESPITE AND PERSONAL ASSISTANCE SERVICES.

(1) The unit for respite and personal assistance services may be one quarter (1/4) of an hour or daily rates as determined by ~~DIDS~~ DIDD.

(2) The determination of rates in this section (.09) is calculated based on units of one quarter (1/4) of an hour for one (1) staff person or of one day of allowable direct service costs for one (1) staff person and a percentage of administrative costs. Reimbursement for two (2) staff to deliver services to one (1) service recipient at the same time is not covered under any circumstances.

(3) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Personal Assistance.

(4) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Respite services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.13 ~~0940-04-03-.10~~ RATE SETTING METHODOLOGIES FOR DENTAL SERVICES.

Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 27, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*

0465-01-02-.14 ~~0940-04-03-.11~~ RATE SETTING METHODOLOGIES FOR PERSONAL EMERGENCY RESPONSE SYSTEMS.

Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules;*

(Rule 0940-04-03-.11, continued)
and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.15 ~~0940-04-03-.12~~ RATE SETTING METHODOLOGIES FOR SPECIALIZED MEDICAL EQUIPMENT AND SUPPLIES.

Rates paid are the usual and customary costs for the equipment or supplies.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.16 ~~0940-04-03-.13~~ RATE SETTING METHODOLOGIES FOR ENVIRONMENTAL MODIFICATIONS.

Rates paid are the usual and customary costs for the modification.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules;*

and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.
Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*
Emergency rule filed____; effective through _____.

~~**0940-04-03-.14 RATE SETTING METHODOLOGIES FOR VEHICLE MODIFICATIONS.**~~

~~Rates paid are the usual and customary costs for the modification.~~

~~***Authority:*** *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.* ***Administrative History:*** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.~~

0465-01-02-.17~~**0940-04-03-.15**~~ **RATE SETTING METHODOLOGIES FOR VISION SERVICES.**

Rates paid are a combination of the usual and customary charges for examination and corrective lenses. ~~and those set by TennCare for reimbursement of Medicaid funded vision care.~~

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.*
Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*
Emergency rule filed____; effective through _____.

0465-01-02-.18 ~~**0940-04-03-.16**~~ **RATE SETTING METHODOLOGIES FOR INDEPENDENT SUPPORT**

COORDINATION SERVICES.

Current rates in this category ~~are found at Rule 0620-06-03-.04 (h) and~~ were derived after consideration of provider input, resource availability as well as system service requirements Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (*e.g.* Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs. ~~Rates are always subject to DIDS funding/resource availability.~~

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____.*

0465-01-02-.19 ~~**0940-04-03-.17**~~ **RATE SETTING METHODOLOGIES FOR SERVICES FUNDED EXCLUSIVELY BY THE STATE [NON-WAIVER; STATE FUNDED (NWSF) SERVICES.**

Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to DID~~S~~D funding and resource availability.

Authority *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.* ***Administrative History:*** *Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed____; effective through _____ .*

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the DIDD (board/commission/ other authority) on 01/28/2013, 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: 06/20/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 08/16/2013

Date: 12/9/13

Signature: Debra K Payne

Name of Officer: Debra K. Payne

Title of Officer: Commissioner

TANIA B. VOE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires September 9, 2014

Subscribed and sworn to before me on: 12/9/13

Notary Public Signature:

My commission expires on: September 9, 2014

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-11-13
Date

Department of State Use Only

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Filed with the Department of State on: 12/12/13

Effective on: 3/12/14

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Safety
DIVISION:	Highway Patrol
SUBJECT:	Traffic Enforcement on Interstate Highways
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 55-10-308
EFFECTIVE DATES:	May 31, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal according to the Department. The Fiscal Note for Public Chapter 90 of 2013, which the Department cites as having necessitated the rule, estimated that the cost of the legislation was "not significant".
STAFF RULE ABSTRACT:	The rule establishes terms for the manner and method of enforcement of the rules of the road on interstate highways by law enforcement agencies of municipalities with populations of 10,000 persons or less. The rule is required as a result of the passage of Public Chapter 90 of 2013, which mandates a three-year suspension of authorization for municipalities to enforce the rules of the road on interstate highways in the event of non-compliance with this rule.

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.

This rule does not affect 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)

Impacts municipalities with populations of 10,000 persons or less.

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For Department of State Use Only

Sequence Number: 12-16-13
Rule ID(s): 5633
File Date: 12/17/13
Effective Date: 5/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Department of Safety
Division:	Highway Patrol
Contact Person:	Gerry Crownover, Staff Attorney
Address:	1150 Foster Avenue, Nashville TN
Zip:	37243
Phone:	(615) 251-5277
Email:	Gerry.Crownover@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**
1340-03-04	Municipal Enforcement of Rules of the Road
Rule Number	**Rule Title**
1340-03-04-.02	Definitions
1340-03-04-.05	Annual Enforcement Notice
1340-03-04-.08	Clearly Identified Vehicles
1340-03-04-.09	Certified Speed Detection Equipment
1340-03-04-.10	Certified Peace Officers
1340-03-04-.14	Revocation of Authorization

(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://state.tn.us/sos/rules/1360/1360.htm)

The language of Paragraphs (4), (5) and (6) of Rule 1340-03-04-.02 Definitions is deleted in its entirety and new language substituted, so that, as amended, the Paragraphs shall read:

(4) Municipality means a city or town properly incorporated as a municipal corporation with a population of 10,000 or less according to the ~~2000 Decennial~~ 2010 federal census or any subsequent federal census.

(5) Municipal law enforcement agency means the police department of a municipality with a population of

10,000 or less according to the ~~2000 Decennial~~ 2010 federal census or any subsequent federal census.

(6) Chief law enforcement officer means the chief, director, or the highest ranking officer known by any other title of a municipal law enforcement agency in a municipality with a population of 10,000 or less according to the ~~2000 Decennial~~ 2010 federal census or any subsequent federal census.

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308 and Public Chapter ~~914 of 2004~~ 90 of 2013. Administrative History: Original rule filed December 6, 2004; effective April 29, 2005.

The language of Subparagraph (5)(c) of Rule 1340-03-04-.05 Annual Enforcement Notice is deleted in its entirety and new language substituted, so that, as amended, the Subparagraph shall read:

(c) A statement that all officers engaged in enforcement of the rules of the road have read, understand, and will follow the General Orders listed herein and any addendums or referenced manuals thereto issued by the Tennessee Highway Patrol to ensure their safety, the safety of the public, and to ensure uniform enforcement procedures and standards:

G.O. # 405 – Traffic Direction and Control
G.O. # 411 – Pursuit Regulations ~~Driving; Routine and Emergency Operations of the Patrol Vehicle~~
~~G.O. # 412 – The Use of Tire Deflation Devices~~
G.O. # 415 – Motorcycle Care and Operations (THP Only)
G.O. # 430 – Traffic Crash Investigation~~s~~
G.O. # 501 – Enforcement Policy and Professional Conduct
G.O. # 505 – Stop and Approach Procedures
G.O. # 506 – Profiling
G.O. # 513 – Vehicle Inventory and Searches
G.O. # 520 – ~~Uniform~~ Citations
~~G.O. # 521 – Use of a Warning Ticket~~
G.O. # 555 – Speed Measurement Devices
~~G.O. # 710-1 – Use and Investigation of Deadly Force Incidents~~
G.O. # 712-1 – Cameras (In-Car)
~~G.O. # 730 – Maintenance, Assignment and Inventory of Radar Equipment~~

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308. Administrative History: Original rule filed December 6, 2004; effective April 29, 2005. Repeal and new rule filed August 21, 2008; effective December 29, 2008.

The language of Rule 1340-03-04-.08 Clearly Identified Vehicles is deleted in its entirety and new language substituted, so that, as amended, the Rule shall read:

1340-03-04-.08 Clearly ~~Identified~~ Marked Vehicles.

(1) Each municipal law enforcement agency enforcing rules of the road on interstate highways shall utilize only clearly marked law enforcement vehicles and shall not utilize unmarked law enforcement vehicles. Clearly marked law enforcement vehicles shall display the law enforcement agency's patch, badge, seal or other official agency logo.

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308. Administrative History: Original rule filed December 6, 2004; effective April 29, 2005. Repeal and new rule filed August 21, 2008; effective December 29, 2008.

The language of Paragraph (1) of Rule 1340-03-04-.09 Certified Speed Detection Equipment is deleted in its entirety and new language substituted, so that, as amended, the Paragraph shall read:

(1) Each municipal law enforcement agency enforcing rules of the road on interstate highways, to the extent that speed detection equipment is used, shall utilize speed detection equipment tested and certified by the International Association of Chiefs of Police (IACP). Refer to paragraph 2 below for radar speed-measuring device models meeting the minimum performance specifications as published by the National Highway Traffic Safety Administration (NHTSA) of the USDOT. The requirements of General Order numbers 555 ~~and 730~~ must be adhered to in checking, maintaining and testing such devices. A certified radar technician must also recertify this equipment annually pursuant to the manufacturer's

recommendations. The operator of such equipment must also be certified and recertified annually on the use and operation of the speed detection equipment pursuant to the certification requirements of General Order number 555.

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308. Administrative History: Original rule filed December 6, 2004; effective April 29, 2005. Repeal and new rule filed August 21, 2008; effective December 29, 2008.

The language of Rule 1340-03-04-.10 Certified Peace Officers is deleted in its entirety and new language substituted, so that, as amended, the Rule shall read:

1340-03-04-.10 Certified Peace Officers.

(1) Each municipal law enforcement agency enforcing rules of the road on interstate highways shall permit only ~~properly certified peace officers~~ "Full-time law enforcement offers" as defined in 1110-01-.01, Rules of the Tennessee Peace Officers Standards and Training Commission, who have completed the Basic Law Enforcement Course as provided for in 1110-03-.01, Rules of the Tennessee Peace Officers Standards and Training Commission, or equivalent course of instruction, to enforce rules of the road. ~~No reserve officer, part-time officer, or other uncertified peace officer may enforce rules of the road on interstate highways~~. All officers shall wear the law enforcement agency's official uniform while working the interstate highways. Officers are not permitted to wear plain clothes while working the interstate highways under this authorization. All officers shall carry their official agency's identification card containing, at a minimum, a photograph of the employee, name, rank/title, and date of issuance.

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308. Administrative History: Original rule filed December 6, 2004; effective April 29, 2005. Repeal and new rule filed August 21, 2008; effective December 29, 2008.

The language of Rule 1340-03-04-.14 Revocation of Authorization is deleted in its entirety and new language substituted, so that, as amended, the Rule shall read:

~~1340-03-04-.14 Revocation of Authorization.~~

~~(1) Upon determining that a municipality is not complying with these rules and all General Orders listed in 1340-03-04-.05(5)(c), the Commissioner (or the Commissioner's designee) shall revoke the authorization for the municipality to enforce the rules of the road on the interstate highways.~~

~~(2) Such revocation shall be made in writing and sent by certified mail, return receipt requested, thirty (30) days prior to the effective date of the revocation of authority to the chief law enforcement officer of the~~

~~(3) The municipal law enforcement agency shall have twenty (20) days from receipt of the revocation notification to provide proof to the department that the municipal law enforcement agency is or will be compliant with these rules and all General Orders listed in 1340-03-04-.05(5)(c). Timely submission of proof to the department shall stay the revocation until the department has made a determination whether or not to rescind the revocation.~~

~~(4) If the proof submitted under paragraph (3) is acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer in writing, by facsimile and mail, that the revocation is being rescinded.~~

~~(5) If the proof submitted under paragraph (3) is not acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer in writing, by facsimile and mail, that the revocation will be effective either:~~

~~(a) on the thirtieth (30th) day after the initial revocation letter was sent; or,~~

~~(b) if the determination is made more than thirty (30) days after the initial revocation letter was sent, that the revocation will be effective immediately.~~

1340-03-04-.14 Suspension of Authorization.

(1) Upon determining that a municipality is enforcing the rules of the road on the interstate highways without proper authority or is not complying with these rules and all General Orders listed in 1340-03-04-.05(5)(c), the Commissioner (or the Commissioner's designee) may refuse to issue or may suspend for up to three (3) years the authorization for the municipality to enforce the rules of the road on the interstate highways.

(2) Such suspension shall be made in writing and sent by certified mail, return receipt requested, to the chief law enforcement officer and the mayor of the municipality no less than thirty (30) days prior to the effective date of the suspension of authority.

(3) The municipal law enforcement agency shall have twenty (20) days from receipt of the suspension notification to provide proof to the department that the municipal law enforcement agency was compliant with these rules and all General Orders listed in 1340-03-04-.05(5)(c). Timely submission of proof to the department shall stay the suspension until the department has made a determination whether or not to rescind the suspension.

(4) If the proof submitted under paragraph (3) is acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer and mayor in writing and sent by certified mail, return receipt requested, that the suspension is being rescinded.

(5) If the proof submitted under paragraph (3) is not acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer and mayor in writing and sent by certified mail, return receipt requested, that the suspension will be reinstituted.

(6) At the conclusion of the suspension served by a municipal law enforcement agency, such agency must re-file for authorization pursuant to 1340-03-04-.05 herein prior to enforcing the rules of the road on the interstate highways.

Authority: T.C.A. §§ 4-3-2009, 4-7-112, 55-10-308 and Public Chapter ~~914 of 2004~~ 90 of 2013. Administrative History: Original rule filed August 21, 2008; effective December 29, 2008.

* 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 Commissioner of Safety and Homeland Security on 07/08/2013, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 11-27-13

Signature:

Name of Officer: Dereck Stewart

Title of Officer: Lt. Colonel, Tennessee Highway Patrol

Subscribed and sworn to before me on: 11-27-13

Notary Public Signature: Donna L. Elmore

My commission expires on: 1-26-14

DONNA L. ELMORE STATE OF TENNESSEE NOTARY PUBLIC WILSON COUNTY

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-5-13
Date

Department of State Use Only

Filed with the Department of State on: 12/17/13

Effective on: 5/31/14

Tre Hargett
Secretary of State

RECEIVED 2013 DEC 17 PM 1:15 OFFICE OF SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Mental Health and Substance Abuse Services
DIVISION:	Office of Licensure
SUBJECT:	Controlled substances
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 4-4-103, 33-1-303, 33-1-305, 39-17-403
EFFECTIVE DATES:	March 20, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	The rule revises lists of controlled substances to ensure consistency between federal regulations and state law.

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.

See attached Memo.

STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
6th FLOOR, ANDREW JACKSON BUILDING
500 DEADERICK STREET
NASHVILLE, TENNESSEE 37243

BILL HASLAM
GOVERNOR

E. DOUGLAS VARNEY
COMMISSIONER

MEMORANDUM

TO: E. Douglas Varney
Commissioner, TDMHSAS

FROM: Kurt Hippel
Director of Legislation and Rules, TDMHSAS

DATE: Thursday, November 21, 2013

RE: Public Hearing for 0940-06-01 Controlled Substances rulemaking activity

On Tuesday, November 19, 2013, the Tennessee Department of Mental Health and Substance Abuse Services ("the Department") held a public hearing re: proposed changes to Rules Chapter 0940-06-01 Controlled Substances. The Department did not receive any oral or written comments during this public hearing or during the time period designated for accepting comments re: Rules Chapter 0940-06-01 Controlled Substances.

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.

These rules will not affect small businesses. Although, some pharmacies qualify as small businesses, the changes to the controlled substances schedules promulgated by these rules will not change the daily operations of those pharmacies because the majority of the added controlled substances are of a nature that would not be dispensed by a pharmacy.

Economic Impact Statement

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.

   These rules will not affect 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.

   These rules will not affect reporting, recordkeeping, or other administrative costs of small businesses.

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

   These rules will not affect small businesses.

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 is no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rules.

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

   These rule compare favorably with the federal controlled substances schedules as T.C.A. § 39-17-403 requires the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) to schedule substances if those substances have been designated as controlled substances by federal regulations promulgated by the U.S. Department of Justice Drug Enforcement Administration (DEA), unless TDMHSAS, upon agreement with the Tennessee Department of Health (TDH), decides otherwise.

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 will not affect 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)

TDMHSAS estimates that these rules will not have a projected financial impact on local governments.

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Sequence Number: 12-25-13
Rule ID(s): 51639
File Date: 12-20-13
Effective Date: 3-20-14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Mental Health and Substance Abuse Services
Division:	Office of Licensure
Contact Person:	R. Kurt Hippel, Director, Office of Legislation and Rules
Address:	500 Deaderick Street 5th Floor, Andrew Jackson Building Nashville, TN
Zip:	37243
Phone:	615-532-9439
Email:	Kurt.Hippel@tn.gov

Revision Type (check all that apply):

___ Amendment
X New
X 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**
0940-06-01	Controlled Substances
Rule Number	**Rule Title**
0940-06-01-.01	Controlled Substances in Schedule I
0940-06-01-.02	Controlled Substances in Schedule II
0940-06-01-.03	Controlled Substances in Schedule III
0940-06-01-.04	Controlled Substances in Schedule IV
0940-06-01-.05	Controlled Substances in Schedule V
0940-06-01-.06	Controlled Substances in Schedule VI
0940-06-01-.07	Controlled Substances in Schedule VII
0940-06-01-.08	Non-Narcotic Substances Excluded from Controlled Substances
0940-06-01-.09	Chemical Preparations Excluded from Controlled Substances
0940-06-01-.10	Veterinary Anabolic Steroid Implant Products Excluded from Controlled Substances
0940-06-01-.11	Prescription Products Excluded from Controlled Substances
0940-06-01-.12	Anabolic Steroid Products Excluded from Controlled Substances
0940-06-01-.13	Certain Cannabis Plant Material, and products made therefrom, Excluded from Controlled Substances

(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://state.tn.us/sos/rules/1360/1360.htm)

0940-06-01-.01 Controlled Substances in Schedule I.

(1) Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, salts is possible within the specific chemical designation. For the purposes of subparagraph (hh) 3-Methyfentanyl, only, the term isomer includes the optical and geometric isomers.

(a) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenyl-acetamide)..... 9815

(b) Acetylmethadol..... 9601

(c) Allylprodine.....
9602

(d) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)..... 9603

(e) Alphameprodine.....9604

(f) Alphamethadol.....9605

(g) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine.....9814

(h) Alpha-methylthiofentanyl (N-[1-(1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide).....9832

(i) Benzethidine..... 9606

(j) Betacetylmethadol..... 9607

(k) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).....9830

(l) Beta-hydroxy-3-methylfentanyl 9831
Other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide

(m) Betameprodine..... 9608

(n) Betamethadol..... 9609

(o) Betaprodine.....9611

(p) Clonitazene.....9612

(q) Dextromoramide.....9613

(r) Diampromide.....9615

(s) Diethylthiambutene..... 9616

(t) Difenoxin..... 9168

(u) Dimenoxadol..... 9617

(v) Dimepheptanol..... 9618

(w) Dimethylthiambutene..... 9619

(x) Dioxaphetyl butyrate..... 9621

(y) Dipipanone..... 9622

(z) Ethylmethylthiambutene..... 9623

(aa) Etonitazene..... 9624

(bb) Etoxeridine..... 9625

(cc) Furethidine..... 9626

(dd) Hydroxypethidine..... 9627

(ee) Ketobemidone..... 9628

(ff) Levomoramide..... 9629

(gg) Levophenacylmorphan..... 9631

(hh) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piper-idyl]-N-phenylpropanamide)..... 9813

(ii) 3-~~Methylthiofentanyl~~ methylthiofentanyl (N-~~{~~-[(3-methyl-1-[~~2~~-(2-thienyl) ethyl]-4-piperidinyl~~}~~-]-N-phenylpropanamide)..... 9833

(jj) Morpheridine..... 9632

(kk) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)..... 9661

(ll) Noracymethadol..... 9633

(mm) Norlevorphanol..... 9634

(nn) Normethadone..... 9635

(oo) Norpipanone..... 9636

(pp) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide~~Para-fluorofentanyl (N-[1-(2-phenylethyl)-4-piperidyl]-N-(4-fluorophenyl)-propanamide)~~..... 9812

(qq) PEPAP (1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine)..... 9663

(rr) Phenadoxone..... 9637

(ss) Phenampromide..... 9638

(tt) Phenomorphan..... 9647

(uu) Phenoperidine..... 9641

(vv) Piritramide..... 9642

(ww) Proheptazine..... 9643

(xx) Properidine..... 9644

(yy) Propiram..... 9649

(zz) Racemoramide..... 9645

(aaa) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide~~Thiofentanyl (N-[1-(2-(2-thienyl) ethyl-4-piperidyl]-N-phenylpropanamide)~~.....9835

(bbb) Tilidine..... 9750

(ccc) Trimeperidine..... 9646

(3) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine.....9319

(b) Acetyldihydrocodeine..... 9051

(c) Benzylmorphine..... 9052

(d) Codeine methylbromide..... 9070

(e) Codeine-N-Oxide..... 9053

(f) Cyprenorphine..... 9054

(g) Desomorphine..... 9055

(h) Dihydromorphine.....9145

(i) Drotebanol..... 9335

(j) Etorphine (except hydrochloride salt)..... 9056

(k) Heroin..... 9200

(l) Hydromorphinol 9301

(m) Methyldesorphine..... 9302

(n) Methyldihydromorphine.....9304

(o) Morphine methylbromide..... 9305

(p) Morphine methylsulfonate..... 9306

(q) Morphine-N-Oxide..... 9307

(r) Myrophine.....9308

(s) Nicocodeine..... 9309

(t) Nicomorphine..... 9312

(u) Normorphine..... 9313

(v) Pholcodine..... 9314

(w) Thebacon..... 9315

(4) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers, is possible within the specified chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(a) Alpha-ethyltryptamine.....7249
Other names: etryptamine; Monase; α[alpha]a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α[alpha]a-ET; and AET, ET, Trip.

(b) Alpha-methyltryptamine 7432
Other name: AMT.

(c) 4-Bromo-2, 5-dimethoxy-amphetamine.....7391
Other names: 4-bromo-2, 5-dimethoxy-α[alpha]a-methylphenethylamine; 4-bromo-2, 5-DMA.

(d) 4-Bromo-2, 5-dimethoxyphenethylamine 7392
Other names: 2-(4-bromo-2, 5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus.

(e) Bufotenine.....7433
Other names: 3-(β[beta]B-Di-methylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5-hydroxyindole; 3-(2-dimethylsminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dl-methyltryptamine; mappine

(f) Diethyltryptamine..... 7434
Other names: N, N-Diethyl-tryptamine; DET

(g) 2, 5-
Dimethoxyamphetaminedimethoxyamphetamine.....
..... 7396
Other names: 2, 5 dimethoxy-α[alpha]a-methylphenethylamine; 2, 5-DMA

(h) 2, 5-dDimethoxy-4-ethylamphet-amine..... 7399
Other name: DOET

(i) 2, 5 Dimethoxydimethoxy-4-(n)-
propylthiophenethylamine..... 7348
Other name: 2C-T-7

(j) Dimethyltryptamine..... 7435
Other name: DMT

(k) Ethylamine analog of phencyclidine.....7455
Other names: N-ethyl-1-phelnylcyclohexylamine, (1-phenylcycloehexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE

(l) Ibogaine..... 7260
Other names: 7-Ethyl-6, 6β[beta]B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1", 2":1, 2] azepina azepino [5, 4-b] indole; Tabernanthe iboga.

(m) Lysergic acid diethylamide..... 7315
Other name: LSD

(n) Mescaline..... 7381
Other name: Constituent of "Peyote" cacti

(o) 4-mMethoxyamphetamine.....
7411
Other names: 4-methoxy-α[alpha]a-methylphenethylamine; paramethoxyamphetamine, PMA

(p) 5-mMethoxy-3, 4-methylenedioxy-amphetamine.....
7401

(q) 5-mMethoxy-N, N-diisopropyltryptamine.....
7439
Other name: 5-MeO-DIPT

(r) 5-methoxy-N,N-dimethyltryptamine ~~Some trade or~~
eOther names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT..... 7431

(s) 4-mMethyl-2, 5-dimethoxy-amphetamine.....
7395
Other names: 4-methyl-2,5-dimethoxy-α[alpha]a-methylphenethylamine, DOM, and STP

(t) 3, 4-mMethylenedioxy amphetamine.....
7400

(u) 3, 4-mMethylenedioxymethamphetamine.....
7405
Other name: MDMA

(v) 3,4-mMethylenedioxy-N-ethylamphetamine.....
7404
Other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA

(w) 3,4-Methylenedioxy-N-methylcathinone..... 7540
Other names: Methylone

(x) N-ethyl-3-piperidyl benzilate..... 7482

(y) N-hydroxy-3, 4-methylenedioxyamphetamine..... 7402
Other names: N-hydroxy-alpha-methyl-3, 4 (methylenedioxy) phenethylamine; N-hydroxy MDA

(z) N-methyl-3-piperidyl benzilate..... 7484

(aa) Parahexyl..... 7374
Other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl

(bb) Peyote.....7415
Meaning all parts of the plant presently classified botanically as Lophophora williamsii ~~Lamaire~~Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts. (Interprets 21 USC 812 (c), Schedule ~~1~~ I (c) (12)~~(o)~~)

(cc) Psilocybin (constituent of magic mushrooms)..... 7437

(dd) Psilocyn (constituent of magic mushrooms) 7438

(ee) Pyrrolidine analog of phencyclidine (1-(1-phenylcyclohexyl)-pyrrolidine)..... 7458
Other names: PCPy; PHP

(ff) 1-[1-(2-~~Thienyl~~thienyl)cyclohexyl] pyrrolidine.....
7473

Other names: TCPy

(gg) 4-methyl-N-methylcathinone..... 1248
Other names: 4-methylmethcathinone; Methpadrone, 4-MMC; mephedrone

(hh) 3,4-methylenedioxypyrovalerone..... 7535
Other names: MDPV

(ii) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)..... 7509

(jj) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)..... 7508

(kk) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)..... 7519

(ll) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)..... 7518

(mm) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)..... 7385

(nn) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4) 7532

(oo) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)..... 7517

(pp) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N) 7521

(qq) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P) 7524

(rr) Thiophene analog of phencyclidine..... 7470
Other names: 1-[1-(2-~~Thienyl~~thienyl~~)~~)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP; TCP

(ss) 3, 4, 5-~~Trimethoxy~~ trimethoxy
amphetamine.....7390

(tt) (1-pentyl-1H -indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers--7144 (Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole)

(uu) [1-(5-fluoro-pentyl)-1H -indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers--7011 (Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole)

(vv) N -(1-adamantyl)-1-pentyl-1H -indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers--7048 (Other names: APINACA, AKB48)

(5) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation:

(a) ~~Gamma~~gamma-hydroxybutyric aAcid..... 2010
Other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate~~GHB, gamma-hydroxybutyrate, 4-hydroxybulanoic acid~~

(b) Mecloqualone.....2572

(c) Methaqualone.....2565

(6) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(a) Aminorex..... 1585
Other names: ~~aminoxophen~~aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine

(b) Cathinone..... 1235
Other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone, constituent of *catha edulis or* "Khat" plant

(c) Fenethylline..... 1503

(d) Methcathinone..... 1237
Other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR 1432), its salts, optical isomers and salts of optical isomers

(e) (+/-) *cis*-4-~~Methylaminorex~~ methylaminorex (cis isomer)..... 1590
Other name: ~~(+/-)~~(+/-)cis-4,~~5~~ 5-dihydro-4-methyl-5-phenyl-2-oxazolamine

(f) N-~~benzylpiperazine~~Benzylpiperazine..... 7493
Other names: BZP, 1-benzylpiperazine

(g) N-ethylamphetamine..... 1475

(h) N, N-dimethylamphetamine..... 1480
Other names: N, N-alpha-trimethyl-benzeneethanamine; N, N-alpha-trimethylphenethylamine

(7) Cannabimimetic agents. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497) 7297

(b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog) 7298

(c) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678) 7118

(d) 1-butyl-3-(1-naphthoyl)indole (JWH-073) 7173

(e) 1-hexyl-3-(1-naphthoyl)indole (JWH-019) 7019

(f) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200) 7200

(g) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250) 6250

(h) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081) 7081

(i) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122) 7122

(j) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398) 7398

(k) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201) 7201

(l) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694) 7694

(m) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4) 7104

(n) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole 7008 (SR-18 and RCS-8) 7008

(o) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203) 7203

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.02 Controlled Substances in Schedule II.

(1) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate~~,~~ excluding apomorphine, dextrorphan, thebaine-derived butorphanol, nalmefene, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

1. Codeine 9050

2. Dihydroetorphine 9334

3. Ethylmorphine 9190

4. Etorphine hydrochloride 9059

5. Granulated opium 9640

6. Hydrocodone 9193

7. Hydromorphone 9150

8. Metopon 9260

9. Morphine 9300

10. Opium extracts 9610

11. Opium fluid ~~extracts~~ 9620

12. Oripavine..... 9330

13. Oxycodone..... 9143

14. Oxymorphone..... 9652

15. Powdered opium.....9639

16. Raw opium..... 9600

17. Thebaine..... 9333

18. Tincture of opium..... 9630

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (2)(a) of this rule, except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder from which contains the phenanthreine alkaloids of the opium poppy)..... 9670

(3) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil.....9737

(b) Alphaprodine..... 9010

(c) Anileridine.....9020

(d) Bezitramide..... 9800

(e) Carfentanil..... 9743

(f) Dextropropoxyphene (bulk, non dosage forms).....9273

(g) Dihydrocodeine.....9120

(h) Diphenoxylate.....9170

(i) Fentanyl.....9801

(j) Isomethadone.....9226

(k) Levo-alphacetylmethadol..... 9648

Other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM

(l) Levomethorphan..... 9210

(m) Levorphanol..... 9220

(n) Metazocine..... 9240

(o) Methadone..... 9250

(p) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane..... 9254

(q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid..... 9802

(r) Pethidine (meperidine)..... 9230

(s) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine..... 9232

(t) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate..... 9233

(u) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid..... 9234

(v) Phenazocine..... 9715

(w) Piminodine..... 9730

(x) Racemethorphan..... 9732

(y) Racemorphan..... 9733

(z) Remifentanil..... 9739

(aa) Sufentanil..... 9740

(bb) Tapentadol..... 9780

(4) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers..... 1100

(b) Methamphetamine, its salts, isomers, and salts of its isomers..... 1105

(c) Phenmetrazine and its salts..... 1631

(d) Methylphenidate..... 1724

(e) Lisdexamfetamine, its salts, isomers, and salts of its isomers..... 1205

(5) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital..... 2125

(b) Glutethimide..... 2550

(c) Pentobarbital..... 2270

(d) Phencyclidine..... 7471

(e) Secobarbital..... 2315

(6) Hallucinogenic substances.

(a) Nabilone..... 7379
Other names: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

(7) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) Immediate precursor to amphetamine and methamphetamine:

1. Phenylacetone.....8501
Other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(b) Immediate precursors to phencyclidine (PCP):

1. 1-phenylcyclohexylamine..... 7460

2. 1-piperidinocyclohexanecarbonitrile (PCC)..... 8603

(c) Immediate precursor to fentanyl:

1. 4-anilino-N-phenethyl-4-piperidine (ANPP)..... 8333

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.03 Controlled Substances in Schedule III.

(1) Schedule III consists of the drugs and other substances by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under 21 C.F.R. 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances..... 1405

(b) Benzphetamine..... 1228

(c) Clorphentermine..... 1645

(d) Clortermine..... 1647

(e) Phendimetrazine..... 1615

(3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound,

mixture, or preparation which contains any quantity of the following substances having a depressant effect ion the central nervous system:

(a) Any compound, mixture, or preparation containing:

1. Amobarbital ~~and non-controlled active ingredients~~ 2126

2. Secobarbital ~~and non-controlled active ingredients~~ 2316

3. Pentobarbital ~~and non-controlled active ingredients~~ 2271
Or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing:

1. Amobarbital 2126

2. Secobarbital 2316

3. Pentobarbital 2271
Or any salt of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof. Examples include the following drugs: 2100

1. Aprobarbital 2100

2. Butabarbital (secbutabarbital) 2100

3. Butalbital 2100

4. Butobarbital (butethal) 2100

5. Talbutal 2100

6. Thiamylal 2100

7. Thiopental 2100

8. Vinbarbital 2100

(d) Chlorhexadol 2510

(e) Embutramide 2020

(f) Gamma hydroxybutyric acid preparations. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application ~~of~~ is approved under § 505 of the federal Food, Drug, and Cosmetic Act, codified in 21 U.S.C. § ~~355~~301, et seq. 2012

(g) Ketamine, its salts, isomers, and salts of isomers 7285
Other name: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone

(h) Lysergic acid 7300

(i) Lysergic acid amide 7310

(j) Methyprylon..... 2575

(k) Sulfondiethylmethane..... 2600

(l) Sulfonethylmethane..... 2605

(m) Sulfonmethane..... 2610

(n) Tiletamine and zolazepam or any salt of tiletamine or zolazepam..... 7295

1. Other name for a tiletamine-zolazepam combination product:~~:~~ Telazol®;

2. Other name for tiletamine:~~is~~ 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

3. Other names for zolazepam: ~~are~~ 4-(2-fluorophenyl)-6,8--dihydro-1,3,8-trimethylpyrazolo [3,4-e]~~,~~ [1,4]-diazepin-7(1H)-one and flupyrazapon

(4) Nalorphine..... 9400

(5) Narcotic Drugs~~.~~ , unless specifically excepted or unless listed in another schedule, means:

(a) ~~Unless specifically excepted or unless listed in another schedule, a~~Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9804

3. Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium 9805

4. Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts..... 9806

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active non-narcotic ingredients in recognized therapeutic amounts..... 9807

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9808

7. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than twenty-five (25) milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts..... 9809

8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9810

(b) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:

1. Buprenorphine.....9064

(6) Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters and ethers ~~isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation~~:

(a) Anabolic steroids..... 4000

1. 3[aAlpha],-17[beta]-dihydroxy-5al~~pha~~-androstane;

2. 5[aAlpha]-androstan-3,-17-dione;

3. 17[aAlpha]-methyl-3[alpha], 17[beta]-dihydroxy-5al~~pha~~-androstane;

4. 17[aAlpha]-methyl-3[beta], 17[beta]-dihydroxy-5al~~pha~~-androstane;

5. 17[aAlpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-ene;

6. 17[aAlpha]-methyl-[Ddelta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-testosterone');

7. 17[aAlpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

8. 1-aAndrostenediol (3[alpha],-17[beta]-dihydroxy-5[alpha]-androst-1-ene);

9. 1-aAndrostenediol (3[beta],-17[beta]-dihydroxy-5[alpha]–androst-1-ene);

10. 4-aAndrostenediol (3[beta],-17[beta]-dihydroxy- androst-4-ene);

11. 5-aAndrostenediol (3[beta],-17[beta]-dihydroxy- androst-5-ene);

12. 1-aAndrostenedione (5[alpha]-androst-1-en-3,-17-dione);

13. 4-aAndrostenedione (androst-4-en-3,-17-dione);

14. 5-aAndrostenedione (androst-5-en-3,-17-dione);

15. 3[bBeta],17-dihydroxy-5al~~pha~~-androstane~~)~~;

16. 13[Beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;

17. Bolasterone (7[alpha],-17[alpha]-dimethyl-17[beta]- hydroxyandrost-4-en-3-one);

18. Boldenone (17[beta]-hydroxyandrost-1,-4-diene-3-one);

19. Boldione (androsta-1,4-diene-3,17-dione);

20. Calusterone (7[beta],-17[alpha]-dimethyl-17[beta]- hydroxyandrost-4-en-3-one);

21. Chlorotestosterone;

22. Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one);

23. Dehydrochloromethyltestosterone (4-chloro-17[beta]- hydroxy-17[alpha]-methylandrost-1,4-dien-3-one);

24. [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]-hydroxy- 5[alpha]-androst-1-en-3-one);

25. Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol) Other name: madol

26. 4-Dihydrotestosterone (17[beta]-hydroxy-androstan-3-one)

27. Drostanolone (17[beta]-hydroxy-2[alpha]-methyl- 5[alpha]-androstan-3-one);

28. Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

29. Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],-17[beta]-dihydroxyandrost-4-en-3-one);

30. Formebolone (2-formyl-17[alpha]-methyl-11[alpha],-17[beta]-dihydroxyandrost-1, 4-dien-3-one);

31. Furazabol (17[alpha]-methyl-17[beta]- hydroxyandrostano[2,3-c]-furazan);

32. 4-h~~H~~ydroxy-19-nortestosterone (4,17[beta]- dihydroxy-estr-4-en-3-one);

33. 4-h~~H~~ydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);

34. Mestanolone (17[alpha]-methyl-17[beta]-hydroxy- 5~~alpha~~-androstan-3-one);

35. Mesterolone (1[alpha]-methyl-17[beta]-hydroxy- [5[alpha]]-androstan-3-one);

36. Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,-4-diene-3-one);

37. Methandranone;

38. Methandriol (17[alpha]-methyl-3[beta],-17[beta]- dihydroxyandrost-5-ene);

39. Methandrostenolone;

40. Methasterone (2[alpha], 17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one)

41. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]- androst-1-en-3-one);

42. Methyldienolone (17[alpha]-methyl-17[beta]- hydroxyestra-4, 9-(10)-dien-3-one);

43. Methyltestosterone (17[alpha]-methyl-17[beta]- hydroxyandrost-4-en-3-one);

44. Methyltrienolone (17[alpha]-methyl-17[beta]- hydroxyestra-4,-9,-11-trien-3-one);

45. Mibolerone (7[alpha],-17[alpha]-dimethyl-17[beta]- hydroxyestr-4-en-3-one);

46. Nandrolone (17[beta]-hydroxyestr-4-en-3-one);

47. 19-n~~N~~or-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);

48. 19-n~~N~~or-4-androstenediol (3[alpha],-17[beta]-dihydroxyestr-4-ene);

49. 19-nNor-4-androstenediol (3[beta],-17[beta]-dihydroxyestr- 4-ene);

50. 19-nNor-5-androstenediol (3[alpha],-17[beta]-dihydroxyestr-5-ene);

51. 19-nNor-5-androstenediol (3[beta],-17[beta]-dihydroxyestr- 5-ene);

52. 19-nNor-4-androstenedione (estr-4-en-3,-17-dione);

53. 19-nNor-5-androstenedione (estr-5-en-3,-17-dione);

54. Norbolethone (13[beta],-17[alpha]-diethyl-17[beta]- hydroxygon-4-en-3-one);

55. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);

56. Norethandrolone (17[alpha]-ethyl-17[beta]- hydroxyestr-4-en-3-one);

57. Normethandrolone (17[alpha]-methyl-17[beta]- hydroxyestr-4-en-3-one);

58. Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2- oxa-[5[alpha]]-androstan-3-one);

59. Oxymesterone (17[alpha]-methyl-4,17[beta]- dihydroxyandrost-4-en-3-one);

60. Oxymetholone (17[alpha]-methyl-2-hydroxymethylene--17[beta]-hydroxy-[5[alpha]]-androstan-3-one);

61. Prostanozol (17[beta]-hydroxy-5[alpha]-androstano[3,2-c]~~pryazole~~pyrazole);

62. Stanolone;

63. Stanozolol (17[alpha]-methyl-17[beta]-hydroxy- [5[alpha]]-androst-2-eno[3,2-c]-pyrazole);

64. Stenbolone (17[beta]-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);

65. Testolactone (13-hydroxy-3-oxo-13,-17- secoandrosta-1,-4-dien-17-oic acid lactone);

66. Testosterone (17[beta]-hydroxyandrost-4-en-3-one);

67. Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl- 17[beta]-hydroxygon-4,-9,-11-trien-3-one);

68. Trenbolone (17[beta]-hydroxyestr-4,-9,-11-trien-3-one);

(b) Any salt, ester, or ~~isomer~~ether of a drug or substance described or listed in subparagraph (a), if such salt, ester, or isomer promotes muscle growth.

(c) Anabolic steroids intended for administration to cattle or other non-human species are exempt from this rule unless such steroids are prescribed, dispensed, or distributed for human use.

(d) Anabolic steroids with a combination of estrogens intended for administration to hormone deficient women are exempt from this rule unless such steroids are prescribed, dispensed, or distributed to women who are not hormone deficient.

(7) Hallucinogenic Substances

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a

United States Ffood and Ddrug Aadministration approved ~~drug~~ product..... 7369
Other names: (6a-R-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-~~6~~ 6-H-dibenzo [b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.04 Controlled Substances in Schedule IV.

(1) Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit..... 9167

(b) Dextropropoxyphene ~~dosage forms~~ (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).....9278

(3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam..... 2882

(b) Barbital.....2145

(c) Bromazepam.....2748

(d) Camazepam.....2749

(e) Carisoprodol..... 8192
Other name: Soma®

(f) Chloral betaine..... 2460

(g) Chloral hydrate..... 2465

(h) Chlordiazepoxide..... 2744

(i) Clobazam..... 2751

(j) Clonazepam.....2737

(k) Clorazepate.....2768

(l) Clotiazepam.....2752

(m) Cloxazolam.....2753

(n) Delorazepam.....2754

(o) Diazepam..... 2765

(p) Dichloralphenazone..... 2467

(q) Estazolam.....2756

(r) Eszopiclone..... N/A

(s) Ethchlorvynol.....2540

(t) Ethinamate.....2545

(u) Ethyl Loflazepate.....2758

(v) Fludiazepam.....2759

(w) Flunitrazepam..... 2763

(x) Flurazepam.....2767

(y) Fospropofol.....2138

(z) Halazepam..... 2762

(aa) Haloxazolam..... 2771

(bb) Ketazolam.....2772

(cc) Loprazolam.....2773

(dd) Lorazepam.....2885

(ee) Lormetazepam.....2774

(ff) Mebutamate..... 2800

(gg) Medazepam..... 2836

(hh) Meprobamate..... 2820

(ii) Methohexital.....2264

(jj) Methylphenobarbital (mephobarbital)..... 2250

(kk) Midazolam..... 2884

(ll) Nimetazepam..... 2837

(mm) Nitrazepam..... 2834

(nn) Nordiazepam.....2838

(oo) Oxazepam..... 2835

(pp) Oxazolam..... 2839

(qq) Paraldehyde.....2585

(rr) Petrichloral.....
2591

(ss) Phenobarbital..... 2285

(tt) Pinazepam 2883

(uu) Prazepam 2764

(vv) Quazepam 2881

(ww) Temazepam 2925

(xx) Tetrazepam 2886

(yy) Tramadol ..... N/A
Other names: Ultram® and Ultracet®

(zz) Triazolam 2887

(aaa) Zaleplon 2781

(bbb) Zolpidem 2783

(ccc) Zopiclone 2784

(4) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, positional, or geometric), and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(a) Fenfluramine 1670

(b) Dexfenfluramine 1670

(5) Lorcaserin. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(a) Lorcaserin 1625

(6) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers ~~(whether optical, position, or geometric),~~ and salts of isomers ~~whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation~~:

(a) Cathine ((+)-norpseudoephedrine) 1230

(b) Diethylpropion 1610

(c) Fencamfamin 1760

(d) Fenproporex 1575

(e) Mazindol 1605

(f) Mefenorex 1580

(g) Modafinil 1680

(h) Pemoline (including organometallic complexes and chelates thereof) 1530

(i) Phentermine 1640

(j) Pipradol..... 1750

(k) Sibutramine..... 1675

(l) SPA ((-)-1-dimethylamino-1,2-diphenylethane)..... 1635

(7) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(a) Pentazocine..... 9709

(b) Butorphanol (including its optical isomers)..... 9720

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.05 Controlled Substances in Schedule V.

(1) Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(d) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(f) Not more than 0.5 milligrams of difenoxin ~~(DEA Drug Code No. 9168)~~ and not less than 25 micrograms of atropine sulfate per dosage unit.

(3) Stimulants. Unless specifically exempted or excluded, or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of the isomers:

(a) Pyrovalerone..... 1485

(4) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances havinge a depressant effect on the central nervous system, including its salts:

(a) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]..... 2779

(b) Lacosamide [(*R*)-2-acetoamido-*N*-benzyl-3-methoxy-propionamide]..... 2746

(c) Pregabalin [(S)-3-(aminomethyl)-5-methylhexaenoic acid]..... 2782

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.06 Controlled Substances in Schedule VI.

(1) Marijuana..... 7360

(2) Tetrahydrocannabinols..... 7370

(3) Unless specifically excepted or unless listed in another schedule , synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity. Examples include the following drugs or their compounds regardless of numerical designation of atomic positions covered:

(a) _____ 1 cis or trans tetrahydrocannabinol, and its optical isomers.

(b) _____ 6 cis or trans tetrahydrocannabinol, and its optical isomers.

(c) _____ 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.07 Controlled Substances in Schedule VII.

(1) Butyl nitrite and any isomer of butyl nitrite

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.08 Non-narcotic Substances Excluded from Controlled Substances

(1) Non-narcotic substances listed in the most current edition of 21 C.F.R. 1308.22, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.09 Chemical Preparations Excluded from Controlled Substances

(1) Chemical preparations listed in the most current edition of 21 C.F.R. 1308.24, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.10 Veterinary Anabolic Steroid Implant Products Excluded from Controlled Substances

(1) Veterinary anabolic steroid implant products listed in the most current edition of 21 C.F.R. 1308.26, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.11 Prescription Products Excluded from Controlled Substances

(1) Prescription products listed in the most current edition of 21 C.F.R. 1308.32, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.12 Anabolic Steroid Products Excluded from Controlled Substances

(1) Anabolic steroid products listed in the most current edition of 21 C.F.R. 1308.34, are excluded from

all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.13 Certain Cannabis Plant Material, and products made therefrom, Excluded from Controlled Substances

(1) Certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols listed in the most current edition of 21 C.F.R. 1308.35, are excluded from all schedules.

Authority: Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

Repeals

Chapter 0940-06-01 Controlled Substances is repealed in its entirety.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Mental Health and Substance Abuse Services on _____ (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: *09/25/2013*

Rulemaking Hearing(s) Conducted on: (add more dates). *11/19/2013*

SUE B. HUNT
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF DAVIDSON

Date: 11/21/13

Signature:

Name of Officer: E. Douglas Varney

Title of Officer: Commissioner, Tennessee Department of Mental Health & Substance Abuse Services

Subscribed and sworn to before me on: November 21, 2013

Notary Public Signature: Sue B. Hunt

My commission expires on: May 8, 2017

Date: 21 Nov 13

Signature:

Name of Officer: John Dreyzehner, MD, MPH

Title of Officer: Commissioner, Tennessee Department of Health

KRISTANN A. FLOYD
NOTARY PUBLIC AT LARGE
DAVIDSON COUNTY, TENN.

Subscribed and sworn to before me on: Nov 21 13

Notary Public Signature: Kristann A Floyd

My commission expires on: 3/22/14

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-16-13
Date

Department of State Use Only

Filed with the Department of State on: 12/20/13

Effective on: 3/20/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Labor and Workforce Development
DIVISION:	Workers' Compensation
SUBJECT:	Fees; Utilization Review
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 50-6-102, 50-6-104-50-6-126, and 50-6-233
EFFECTIVE DATES:	March 26, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	The rule amendments reflect changes in the Division pursuant to the recently passed Workers' Compensation Reform Act. Rule amendments are largely procedural and administrative in nature, except the utilization review appeal fee, which is capped by statute.

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: The fee for utilization review appeals should contain a provision that would allow the Division to assess the fee against an employee or medical provider if it is determined that the appeal is frivolous.

Response: The Division agrees that there should be some way to disincentivize unwarranted appeals. The Division plans to address this concern, however, in the comprehensive re-write of the utilization review chapter, which will allow the Division and all stakeholders to comment on such a proposal and create a process for determining when an appeal is unwarranted. Accordingly, the comment is well-taken, but is better suited for a subsequent rulemaking hearing.

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.

STATEMENT OF ECONOMIC IMPACT TO 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 amended rules will affect small employers that fall under the Tennessee Workers' Compensation Laws, which would be employers with at least five employees, or in the construction industry, at least one employee. The rule amendments are largely procedural and administrative in nature, except for the utilization review appeal fee, which is capped by statute at $250.00.

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: Generally, employers' insurance carriers or third party administrators will be responsible for complying with the changes, so no administrative impact would be expected for small businesses.

3. A statement of the probable effect on impacted small businesses and consumers: Since these rule amendments are largely procedural and administrative, there would be no expected impact. To the extent the utilization review appeal fee has any impact, it would be expected to be very minimal because the fee is capped at $250.00, whereas the average medical costs in a workers' compensation claim with a permanent impairment are $21,864.11 (2011 data). As such, the fee would account for a very small percentage of the average claim and would fund a process that is intended to contain medical costs.

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 methods to achieve the purposes and objectives of the amended rule.

5. Comparison of the proposed rule with any federal or state counterparts: 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: It would be detrimental to small businesses that fall under the Tennessee Workers' Compensation Laws to be exempt from these rules because they are intended to contain medical costs.

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)

Local governments have the option to accept the provisions of the workers' compensation laws pursuant to T.C.A. § 50-6-106(6), but are not required to do so. For those local governments that do accept the provisions of the workers' compensation laws, the impact of the rule amendments will be minimal.

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Effective Date: 3/26/14

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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Labor & Workforce Development
Division:	Workers' Compensation
Contact Person:	Landon Lackey
Address:	220 French Landing Dr. Floor 1-B Nashville, Tennessee
Zip:	37243
Phone:	615-532-0370
Email:	Landon.lackey@tn.gov

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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**
0800-02-06	General Rules of the Workers' Compensation Program – Utilization Review
Rule Number	**Rule Title**
0800-02-06-.01	Definitions
0800-02-06-.02	Utilization Review System
0800-02-06-.06	Time Requirements
0800-02-06-.07	Appeals of Utilization Review Decisions
0800-02-06-.10	Sanctions and Civil Penalties
0800-02-06-.12	Appeals for Pain Management Services

Chapter Number	**Chapter Title**
0800-02-07	General Rules of the Workers' Compensation Program – Case Management
Rule Number	**Rule Title**
0800-02-07-.01	Definitions
0800-02-07-.02	Case Management System
0800-02-07-.04	Elements of Case Management
0800-02-07-.06	Confidentiality of Records

Chapter Number	**Chapter Title**
0800-02-17	Medical Cost Containment Program
Rule Number	**Rule Title**
0800-02-17-.01	Purpose and Scope
0800-02-17-.03	Definitions
0800-02-17-.05	Procedure Codes/Adoption of the CMS' Medicare Procedures, Guidelines and Amounts

0800-02-17-.12	Recovery of Payment
0800-02-17-.13	Penalties for Violations of Fee Schedule Rules
0800-02-17-.21	Process for Resolving Differences Between Carriers and Providers Regarding Bills
0800-02-17-.22	Administrative Review of Fee Schedule Disputes/Hearings
0800-02-17-.23	Rule Review
0800-02-17-.25	Impairment Ratings – Evaluations and in Medical Records

Chapter Number	**Chapter Title**
0800-02-18	Medical Fee Schedule
Rule Number	**Rule Title**
0800-02-18-.02	General Information and Instructions for Use
0800-02-18-.12	Pharmacy Schedule Guidelines
0800-02-18-.15	Penalties for Violations of Fee Schedules

Chapter Number	**Chapter Title**
0800-02-19	In-Patient Hospital Fee Schedule
Rule Number	**Rule Title**
0800-02-19-.02	Definitions
0800-02-19-.06	Penalties for Violations of Fee Schedules

Chapter Number	**Chapter Title**
0800-02-20	Medical Impairment Rating Registry Program
Rule Number	**Rule Title**
0800-02-20-.01	Definitions
0800-02-20-.04	Requisite Physician Qualifications for Inclusion on Medical Impairment Rating Registry
0800-02-20-.05	Application Procedures for Physicians to Join the Registry
0800-02-20-.06	Requests for a MIR Registry Physician
0800-02-20-.07	Payments/Fees
0800-02-20-.09	Communication with Registry Physicians
0800-02-20-.13	Removal of a Physician from the Registry
0800-02-20-.14	Penalties
0800-02-20-.15	Time Limits

General Rules of the Workers' Compensation Program – Utilization Review
Chapter 0800-02-06

0800-02-06-.01 DEFINITIONS.

The following definitions are for the purpose of these Utilization Review Rules, Chapter 0800-02-06:

~~(7) "Consultation fee" means a fee for a practitioner who provides consultation services to the Division for the purpose of determining an appeal pursuant to this Chapter. Such fee shall be prescribed by the Commissioner and posted on the division's website. Such fee shall not increase or decrease except after thirty (30) calendar days from the date a notice of increase or decrease is posted on the Division's website.~~

(8) "Contractor" means an independent utilization review organization not owned by or affiliated with any carrier authorized to write workers' compensation insurance in the state of Tennessee with which the Administrator ~~Commissioner~~ has contracted to provide utilization review, including peer review, for the Division, as referred to in T.C.A. § 50-6-124.

(15) "Medical Director" means the Medical Director of the Division appointed by the Administrator ~~Commissioner~~ pursuant to T.C.A. § 50-6-126, or the Medical Director's designee chosen to act on behalf of the Medical Director.

~~(22) "Standard appeal fee" means a fee charged by the Division for the purpose of determining an appeal pursuant to this Chapter. Such fee shall be prescribed by the Commissioner and posted on the Division's website. Such fee shall not increase or decrease except after thirty (30) calendar days from the date a notice of increase or decrease is posted on the Division's website.~~

0800-02-06-.02 UTILZATION REVIEW SYSTEM.

(3) The Administrator ~~Commissioner~~ may provide or contract for certain utilization review services with a Contractor. The Contractor may provide any service allowed by T.C.A. § 50-6-124, including, but not limited to, reviewing utilization review services and providing peer review. The parties shall cooperate and provide any necessary medical information to the Contractor when requested, which shall not constitute a waiver of any applicable privilege or confidentiality.

0800-02-06-.06 TIME REQUIREMENTS.

(5) When there is a dispute over a request for information, the following timeframes shall apply:

(b) Denials for inadequate information may be appealed pursuant to Rule 0800-02-06-.07, at which time the authorized treating physician shall submit all information deemed to be necessary by the Division. If the Division finds that the employer's or utilization review agent's request did not pertain to necessary information, then the employer or utilization review agent may be subject to sanctions and/or civil penalties as set forth in Rule 0800-02-06-.10, at the discretion of the Administrator ~~Commissioner~~. In addition, if an authorized treating physician fails to cooperate and timely furnish all necessary information, records and documentation to an employer or utilization review agent, then the authorized treating physician may be subject to sanctions and/or civil penalties as set forth in Rule 0800-02-06-.10, at the discretion of the Administrator~~Commissioner~~.

0800-02-06-.07 APPEALS OF UTILIZATION REVIEW DECISIONS.

(2) Upon receipt of an appeal request by an employee or authorized treating physician:

(a) The Division or its designated contractor shall conduct the utilization review appeal. The Division or its designated contractor may contact the authorized treating physician for peer review

purposes. The Division or its designated contractor shall determine the medical necessity of the recommended treatment as soon as practicable ~~within twenty-five (25) business days~~ after receipt of all necessary information. The Division or its designated contractor shall then transmit such determination to the authorized treating physician, employee, and employer. The determination of the Division or its designated contractor is final for administrative purposes, subject to the provisions of subsections (3)-(5) of this Rule.

(b) If any information necessary for the determination of the appeal is not within the possession of the Division, then the timeframe in subsection (a) shall be tolled until all such information is submitted and may subject any party withholding such information to sanctions and/or civil penalties as set forth in Rule 0800-02-06-.10, at the discretion of the Administrator ~~Commissioner~~.

(c)
~~(c)~~ The Division shall charge a fee, as posted on its website, pursuant to Public Chapter 289 (2013) and T.C.A. 50-6-204(j) for each utilization review appeal that it completes. The fee shall be paid by the employer within thirty (30) calendar days of the Division's completion of the appeal. ~~The employer shall remit the standard appeal fee and/or the consultation fee to the Division. If the applicable fee is not received within ten (10) business days of the issuance of the Division's determination, a late fee of 10% of the applicable fee per day shall accrue until payment is received~~

0800-02-06-.10 SANCTIONS AND CIVIL PENALTIES.

(1) Failure by an employer, insurer, third party administrator, or utilization review agent to comply with any requirement in this Chapter, 0800-02-06, including but not limited to applying utilization review when required and complying with the timeframes for utilization review, shall subject such party to a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) per violation at the discretion of the Administrator~~Commissioner~~. The Division may also institute a temporary or permanent suspension of the right to perform utilization review services for workers' compensation claims, if the utilization review agent has established a pattern of violations.

0800-02-06-.12 APPEALS FOR PAIN MANAGEMENT SERVICES.

~~The Division shall charge a fee of no more than $224.00 per utilization review appeal for any utilization review conducted pursuant to T.C.A. § 50-6-204(j). The fee shall be paid by the employer within 30 calendar days of the Division's completion of the appeal. If the fee is not paid within such timeframe, then a 10% interest payment shall accrue for every 30 calendar days that the fee remains unpaid.~~

General Rules of the Workers' Compensation Program – Case Management
Chapter 0800-02-07

0800-2-7-.01 DEFINITIONS - GENERAL.

As used in this chapter, the following terms are used as follows:

(4) "~~Commissioner~~Administrator" means the Administrator ~~Commissioner~~ of the Division of Workers' Compensation of the Department of Labor and Workforce Development, or the Administrator's designee.

(6) "Medical Director" means the Medical Director appointed by the Administrator ~~Commissioner~~ of Labor and Workforce Development pursuant to T.C.A. § 50-6-126.

0800-2-7-.02 CASE MANAGEMENT SYSTEM.

(2) The ~~Commissioner~~ Administrator shall provide or contract for certain case management services. The case management services which are provided or contracted for shall include, but not limited to, providing;

0800-2-7-.04 ELEMENTS OF CASE MANAGEMENT.

(2)(c) The contractor shall report any instances of inappropriate case management services or inadequate supervision to the Medical Director. The Medical Director shall report any instance of failure to appropriately supervise a case manager assistant, negligence or other unprofessional or malpractice conduct by a case manager to the ~~Commissioner~~ Administrator and to either the Board of Medical Examiners or the Board of Nursing for appropriate disciplinary proceedings.

0800-2-7-.06 CONFIDENTIALITY OF RECORDS.

(1) Subject to any applicable requirement of law concerning confidentiality of records, a case manager or a firm providing case management services shall provide the ~~Commissioner~~Administrator, or the ~~Commissioner's~~ Administrator's designee, with any appropriate case management records or permit the ~~Commissioner~~ Administrator or the Administrator's ~~Commissioner's~~ designee to inspect, review, or copy such records in a responsible manner.

Medical Cost Containment Program
Chapter 0800-02-17

0800-02-17-.01 PURPOSE AND SCOPE.

(1) Purpose. Pursuant to Tenn. Code Ann. § 50-6-204 (Repl. 2005), the following Medical Cost Containment Program Rules, together with the Medical Fee Schedule Rules, Chapter 0800-02-18-.01 et seq., and the In-patient Hospital Fee Schedule Rules, Chapter 0800-02-19-.01 et seq., (collectively hereinafter "Rules") are hereby adopted by the Administrator ~~Commissioner~~ in order to establish a comprehensive medical fee schedule and a related system which includes, but is not limited to, procedures for review of bills, enforcement procedures and appeal hearings, to implement a medical fee schedule. The Administrator ~~Commissioner~~ promulgates these Rules to establish the maximum allowable fees for health care services falling within the purview of the Tennessee Workers' Compensation Act ("Act"). These Medical Cost Containment Program Rules must be used in conjunction with the Medical Fee Schedule Rules and the In-patient Hospital Fee Schedule Rules. The Rules establish maximum allowable fees and procedures for all medical care and services provided to any employee claiming medical benefits under the Tennessee Workers' Compensation Act. Employers, carriers and providers may negotiate and contract or pay lesser fees as are agreeable between them, but in no event shall reimbursement be in excess of the Rules, subject to the civil penalties prescribed in the Rules, as assessed by, and in the discretion of, the Administrator ~~Commissioner~~, the Administrator's ~~Commissioner's~~ designee, or an agency member appointed by the Administrator ~~Commissioner~~. These Rules are applicable only to those injured employees claiming benefits under the Tennessee Workers' Compensation Act, but are applicable in any state in which that employee seeks such medical benefits.

(2) These rules do all of the following:

(c) Establish procedures by which a health care provider shall be paid the lesser of: (1) the provider's usual bill, (2) the maximum fee established under these Rules, or (3) the MCO/PPO or any other negotiated and contracted or lower price, where applicable. In no event shall reimbursement be in excess of these Rules. Reimbursement in excess of these Rules may, at the Administrator's ~~Commissioner's~~ discretion, result in civil penalties of up to ten thousand dollars ($10,000.00) per violation each assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, if a pattern or practice of such activity is found.

At the Administrator's ~~Commissioner's~~ discretion, such provider may also be reported to the appropriate certifying board, and may be subject to exclusion from participating in providing care under the Act.

0800-02-17-.03 DEFINITIONS.

(3) "Administrator" means the chief administrative officer of the Workers' Compensation Division of the Tennessee Department of Labor and Workforce Development, or the Administrator's designee.

(4) "Appropriate care" means health care that is suitable for a particular person, condition, occasion, or place as determined by the Administrator ~~Commissioner~~ or the Administrator ~~Commissioner's~~ designee after consultation with the Medical Director.

(36) "Inappropriate health care" means health care that is not suitable for a particular person, condition, occasion, or place as determined by the Administrator ~~Commissioner~~ or the Administrator's ~~Commissioner's~~ designee after consultation with the Division's Medical Director.

(42) "Maximum allowable payment" means the maximum fee for a procedure established by these Rules or the usual and customary bill as defined in these Rules, whichever is less, except as otherwise might be specified. In no event shall reimbursement be in excess of the Division's Medical Fee Schedule. Bills in excess of the Division's Medical Fee Schedule shall, at the Administrator's ~~Commissioner's~~ discretion, result in civil penalties of up to ten thousand dollars ($10,000.00) per violation for each violation assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, whenever a pattern or practice of such activity is found. At the Administrator's ~~Commissioner's~~ discretion, such provider may also be reported to the appropriate certifying board, and may be subject to exclusion from participating in providing care under the Act.

(47) "Medical Director" means the Division's Medical Director appointed by the Administrator ~~Commissioner~~ pursuant to T.C.A. § 50-6-126 (Repl. 1999).

(61) "Pattern or practice" means at least one (1) or more violations of the Medical Fee Schedule Rules, the Medical Cost Containment Rules (Chapter 0800-02-17) and/or the In-patient Hospital Fee Schedule Rules (Chapter 0800-02-19), have occurred after notice of a violation has issued from the Division ~~Department~~ for the first violation. To support civil penalties, such violations must be found to not have been inadvertent, as determined by the Administrator~~Commissioner~~.

(76) "Stop-Loss Reimbursement Factor" or "SLRF" means a factor established by the Administrator ~~Commissioner~~ to be used as a multiplier to establish a reimbursement amount when total hospital bills have exceeded specific stop-loss thresholds.

(77) "Stop-Loss Threshold" or "SLT" means a threshold of bills established by the Administrator~~Commissioner~~, beyond which reimbursement is calculated by multiplying the applicable SLRF times the total bills identifying that particular threshold.

0800-02-17-.05 PROCEDURE CODES/ADOPTION OF THE CMS' MEDICARE PROCEDURES, GUIDELINES AND AMOUNTS.

(4) Whenever there is no specific fee or methodology for reimbursement set forth in these Rules, then the maximum amount of reimbursement shall be at 100% of the current, effective CMS' Medicare allowable amount. The most current effective Medicare guidelines and procedures shall be followed in arriving at the correct amount, subject to the requirements of Rule 0800-02-18-.02(4). The conversion amounts may, upon review by the Administrator~~Commissioner~~, be adjusted annually. Whenever there is no applicable Medicare code or methodology, the service,

equipment, diagnostic procedure, etc. shall be reimbursed at the usual and customary amount as defined in Rule 0800-02-17-.03(80) of this Chapter.

0800-02-17-.12 RECOVERY OF PAYMENT.

(1) Nothing in these Rules shall preclude the recovery of payment already made for services and bills which may later be found to have been medically paid at an amount which exceeds the maximum allowable payment. Likewise, nothing in these Rules shall preclude any provider from receiving additional payment for services or supplies if it is properly due that provider and does not exceed the amount allowed by these Rules. ~~If the timeframes in these Rules are not met, then the Medical Care and Cost Containment Committee will decline to review the dispute, but such failure shall not provide an independent basis for denying payment or recovery of payment.~~

~~(2) A carrier may recover a payment to a provider, whether by an employee or a carrier, if the carrier requests the provider for the recovery of the payment, with a statement of reasons for the request, within one year of the date of payment. A provider may likewise recover additional payment from any carrier with a statement of reasons for the request, within one year of the date of service.~~

~~(3) Within thirty-one (31) calendar days of receipt of the carrier's or provider's request for recovery of the payment, the provider or carrier shall do either of the following:~~

~~(a) If in agreement with the request, the provider shall refund payment to the carrier, or in the case of a provider requesting additional payment, the carrier shall submit payment to the provider;~~

~~(b) If not in agreement with the request, supply the carrier or provider with a written detailed statement of the reasons for the disagreement, along with a refund of the portion, if any, of the payment that the provider agrees should be refunded, or payment of the amount the carrier agrees should be paid to the provider.~~

~~(4) If the carrier or provider does not accept the reason for disagreement supplied by the adverse party, the carrier or provider may file a request for Administrative Review, within thirty-one (31) calendar days of receipt of the provider's statement of disagreement. The request for review shall be filed with the Medical Director for a recommendation by the Medical Care and Cost Containment Committee ("MCCCC"). The complaining party shall supply a copy to the opposing party.~~

~~(5) If, within 62 calendar days of the provider or carrier's request for recovery of a payment, the carrier or provider does not receive either a full refund of the payment (or full payment in the case of providers) or a statement of disagreement, then, at the option of the carrier or provider, the carrier or provider may do the following:~~

~~(a) File a request for Administrative Review as outlined above, of which the complaining party shall supply a copy to the opposing party.~~

~~(b) If a carrier, then reduce the payable amount on the provider's subsequent bills (in the case in question or any other case) to the extent of the request for recovery of payment.~~

~~(6) If, within thirty-one (31) calendar days of a recommendation from the MCCCC, the amount recommended is not paid, the carrier may reduce the payable amount on the provider's subsequent bills to the extent of the request for recovery of payment, plus an additional 25% per annum. A provider may also add the additional 25% per annum to the amount recommended to be paid by the MCCC. The provider or carrier may, at its discretion, pursue recovery of the refund or, in the case of providers, additional payment, in a court of law with proper jurisdiction pursuant to Tenn. Code Ann. § 50-6-226.~~

0800-02-17-.13 PENALTIES FOR VIOLATIONS OF FEE SCHEDULE RULES.

(1) Providers shall not accept and employers or carriers shall not pay any amount for health care services provided for the treatment of a covered injury or illness or for any other services encompassed within the Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, when that amount exceeds the maximum allowable payment established by these Rules. Any provider accepting and any employer or carrier paying an amount in excess of the Division's Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, shall be in violation of these Rules and may, at the Administrator's ~~Commissioner's~~ discretion, be subject to civil penalties of up to ten thousand dollars ($10,000.00) per violation for each violation, which may be assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, whenever a pattern or practice of such activity is found. Any provider reimbursed or carrier paying an amount which is in excess of these Rules shall have a period of ninety (90) calendar days from the time of receipt/payment of such excessive payment in which to refund/recover the overpayment amount. Overpayments refunded/recovered within this time period shall not constitute a violation under these Rules. At the discretion of the Administrator~~Commissioner~~, the Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~, such provider may also be reported to the appropriate certifying board, and may be subject to exclusion from participating in providing care under the Act. Any other violation of the Medical Cost Containment Program Rules, Medical Fee Schedule Rules, or the In-patient Hospital Fee Schedule Rules shall subject the violator(s) to a civil penalty of not less than one hundred dollars ($100.00) nor more than ten thousand dollars ($10,000.00) per violation, at the discretion of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~.

(4) Any request for a hearing shall be filed with the Division within fifteen (15) calendar days of the date of issuance of the Notice of Violation and, if applicable, of civil penalty. Failure to file a request for a hearing within fifteen (15) calendar days of the date of issuance of the Notice of Violation shall result in the decision of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~ becoming a final order and not subject to further review.

0800-02-17-.21 PROCESS FOR RESOLVING DIFFERENCES BETWEEN CARRIERS AND PROVIDERS REGARDING BILLS.

~~(1) Carrier's Dispute of a Bill~~

~~(a) When a carrier adjusts and/or disputes a bill or portion thereof, the carrier shall notify the provider within thirty-one (31) calendar days of the receipt of the bill of the specific reasons for adjusting and/or disputing the bill or portion thereof, and shall notify the provider of its right to provide additional information and to request reconsideration of the carrier's action.~~

~~(b) If the provider sends a bill to a carrier and the carrier does not respond in thirty-one (31) calendar days, and if a provider sends a second bill and receives no response within 62 calendar days from the date the provider supplied the first bill, the provider may then proceed with whatever collection actions it deems appropriate in a court of law with proper jurisdiction.~~

~~(c) The carrier shall notify the employer, employee and the provider that the rules prohibit a provider from billing an employee, employer, or carrier for any amount for health care services provided for the treatment of a compensable work-related injury, illness or occupational disease when that amount is disputed by the carrier pursuant to its utilization review program, or when the amount exceeds the maximum allowable payment established by the Fee Schedule Rules~~

~~(Medical and In-patient Hospital). The carrier shall request the employee to notify the carrier if the provider so bills the employee, or employer.~~

~~(2) Provider's Request for Reconsideration of Bill~~

~~A provider may request reconsideration of its adjusted and/or disputed bill by a carrier within thirty-one (31) calendar days of receipt of a notice of an adjusted and/or disputed bill or portion thereof. The provider's request to the carrier for reconsideration of the adjusted and/or disputed bill shall include a statement in detail of the reasons for disagreement with the carrier's adjustment and/or dispute of a bill or portion thereof.~~

~~(3) Carrier's Response to Provider's Request for Reconsideration of Bill; Provider's Right to Appeal:~~

~~(a) Within thirty-one (31) calendar days of receipt of a provider's request for reconsideration, the carrier shall notify the provider of the actions taken and a detailed statement of the reasons. The carrier's notification shall include an explanation of the appeal process provided under this rule.~~

~~(b) If a provider disagrees with the action taken by the carrier on its request for reconsideration, the provider may file a request for Administrative Review within thirty-one (31) calendar days from the date of receipt of a carrier's denial of the provider's request for reconsideration, and the provider shall supply a copy to the carrier.~~

~~(c) If within sixty-two (62) calendar days of the provider's request for reconsideration, the provider does not receive payment for the adjusted and/or disputed bill or portion thereof, or a written detailed statement of the reasons for the actions taken by the carrier, then the provider may make application for Administrative Review by the MCCCC.~~

(14) Disputes

(a) Unresolved disputes between a carrier and provider concerning bills and/or due to conflicting interpretation of these Rules and/or the Medical Fee Schedule Rules and/or the In-patient Hospital Fee Schedule Rules may be presented to the Medical ~~Care and Cost Containment~~Payment Committee (or "Committee") on or after July 1, 2014. A request for Committee~~Administrative~~ Review may be submitted within one (1) year of the date of service to: Medical Director of the Workers' Compensation Division, Tennessee Department of Labor and Workforce Development, 220 French Landing Drive, Nashville, Tennessee 37243, or any subsequent address as prescribed by the Division.

(b) Valid requests for Committee ~~Administrative~~ Review must be accompanied by a form prescribed by the Division, must be legible, and must contain copies of the following:

1. Copies of the original and resubmitted bills in dispute which include dates of service, procedure codes, bills for services rendered and any payment received, and an explanation of unusual services or circumstances;~~.~~

2. Copies of ~~the specific reimbursement.~~all explanations of benefits (EOB's);

3. Supporting documentation and correspondence, if any;~~.~~

4. Specific information regarding contact with the carriers; and~~.~~

5. A verified or declared written medical report signed by the physician and all pertinent medical records.

~~6. A specific written request for Administrative Review.~~

(c) The party requesting ~~Administrative~~ Committee Review must send a copy of the request and all documentation accompanying the request to the opposing party at the same time it is submitted to the Medical Director.

(d) If the request for review does not contain proper documentation, then the ~~MCCCC~~ Committee will decline to review the dispute. Likewise, if the timeframe~~s~~ in this Rule is ~~are~~ not met, then the ~~MCCCC~~ Committee will decline to review the dispute, but such failure shall not provide an independent basis for denying payment or recovery of payment.

0800-02-17-.22 ~~ADMINISTRATIVE~~ COMMITTEE REVIEW OFFEE SCHEDULE DISPUTES/HEARINGS.

(1) ~~Administrative~~ Committee Review Procedure

(a) When a valid request for ~~Administrative~~ Committee Review ~~by the MCCCC~~ is received by the Division's Medical Director, the parties will be notified when the ~~MCCCC~~ Committee will consider the dispute. The Committee may consider the dispute at any meeting during which it has a quorum of the voting members. Members may participate by telephone or by video conferencing and members who participate by telephone or video conferencing shall be counted as if physically present for purposes of establishing a quorum

(b) The parties will have the opportunity to submit documentary evidence and present arguments to the Committee prior to and during the Committee meeting in which the dispute will be heard. ~~The MCCCC shall consider the dispute and issue its recommendation as to the proper resolution of the dispute.~~

(c) The Committee shall consider the dispute and issue its decision as to the proper resolution of the dispute. If the dispute is not ripe for a decision, then the Committee may continue it to the next meeting~~If the parties to the dispute do not follow the recommendation of the MCCCC, then either party may proceed in any court of law with proper jurisdiction to decide the dispute~~.

(d) If the parties to the dispute do not follow the decision of the Committee, then either party may proceed in any court of law with proper jurisdiction to decide the dispute.

0800-02-17-.23 RULE REVIEW.

The Division encourages participation in the development of and changes to the Medical Cost Containment Program Rules, the Medical Fee Schedule Rules and the In-patient Hospital Fee Schedule Rules by all groups, associations, and the public. Any such group, association or other party desiring input into or changes made to these Rules and associated schedules must make their recommendations, in writing, to the ~~-~~ Administrator~~Commissioner~~. After analysis, the Division may incorporate such recommended changes into Rules after appropriate consideration, public comment and compliance with the Uniform Administrative Procedures Act regarding promulgation of rules. The Medical Fee Schedule Rules, Medical Cost Containment Program Rules and In-Patient Hospital Fee Schedule Rules shall be reviewed by the ~~-~~ Administrator~~Commissioner~~, in consultation with the Medical ~~Care and Cost Containment~~Payment Committee and the Advisory Council on Workers' Compensation, on an annual basis. When appropriate, the Administrator~~Commissioner~~ may revise these Rules as necessary and appropriate.

0800-02-17-.25 IMPAIRMENT RATINGS-EVALUATIONS AND IN MEDICAL RECORDS.

(4) Within twenty-one (21) calendar days of the date the treating physician determines the employee has reached maximum medical improvement, the treating physician shall submit to the employer or carrier, as applicable, a fully completed report on a form prescribed by the Administrator~~Commissioner~~. The employer or carrier, as applicable, shall submit a fully

completed form to the Division and the parties within thirty (30) calendar days of the date the treating physician determines the employee has reached maximum medical improvement.

(6) The treating physician is required and responsible for providing the impairment rating, fully completing the report on a form prescribed by the AdministratorCommissioner, and submitting the report to the employer or carrier, as applicable, as required by these Rules. Notwithstanding Rule 0800-02-17-.15, the treating physician shall receive payment of no more than $250.00 for these services to be paid by the employer or carrier. The payment shall only be made to the treating physician. The treating physician shall not require prepayment of such fee.

Medical Fee Schedule
Chapter 0800-02-18

0800-02-18-.02 GENEREAL INFORMATION AND INSTRICTIONS FOR USE.

(2) Reimbursement

(b) Reimbursement to all providers shall be the lesser of the following:

4. In no event shall reimbursement be in excess of these TDWC Fee Schedule Rules, unless otherwise provided in the Division's rules. Reimbursement in excess of the TDWC Medical Fee Schedule Rules may result in civil penalties, at the Administrator's Commissioner's discretion, of up to $10,000.00 per violation for each violation assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, should a pattern or practice of such activity be found. It is recognized that providers must bill all payers at the same amount and simply billing an amount which exceeds the Fee Schedule Rules does not constitute a violation. It is acceptance and retention of an amount in excess of this Fee Schedule Rules for longer than ninety (90) calendar days that constitutes a violation by a provider. At the Administrator's Commissioner's discretion, such provider may also be reported to the appropriate certifying board or other appropriate authority, and may be subject to exclusion from participating further in providing care under the Tennessee Workers' Compensation Act ("Act").

(6) Violations of Fee Schedule Rules and Medical Cost Containment Rules

(a) The CommissionerAdministrator, Administrator'sCommissioner's Designee, or an agency member appointed by the AdministratorCommissioner, shall have the authority to issue civil penalties up to and including $10,000.00 per violation for violations of the Medical Fee Schedule Rules, In-patient Hospital Fee Schedule Rules or the Medical Cost Containment Program Rules ("Rules") as prescribed in the Rules. Any party notified of an alleged violation, whether or not they are assessed civil penalties hereunder, shall be entitled to a contested case hearing before the Commissioner, Commissioner's Designee, or an agency member appointed by the Commissioner pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 et seq., if a written request is submitted to the Division by the party within fifteen (15) calendar days of issuance of notice of such violations and of any civil penalty. Failure to make a timely request will result in the violation and penalty decision becoming a final order and not subject to further review.

0800-02-18-.12 PHARMACY SCHEDULE GUIDELINES.

(1) (e) Reimbursement

1. The pharmaceutical reimbursement formula for prescribed drugs (medicines by pharmacists and dispensing practitioners) is the lesser of:

(i) Average Wholesale Price* ("AWP") + $5.10 filling fee;

(ii) the provider's usual charge; or,

(iii) a negotiated contractual or other lesser amount.

* The Administrator ~~Commissioner~~ may at any time adopt and implement a different base price other than AWP (such as average sales price), should medical reimbursement standards and/or local or other practices warrant, at the Administrator's ~~Commissioner's~~ discretion.

0800-02-18-.15 PENALTIES FOR VIOLATIONS OF FEE SCHEDULES.

(1) Providers shall not accept and employers or carriers shall not pay any amount for health care services provided for the treatment of a covered injury or illness or for any other services encompassed within the Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, when that amount exceeds the maximum allowable payment established by these Rules. Any provider accepting and any employer or carrier paying an amount in excess of the Division's Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, shall be in violation of these Rules and may, at the Administrator's ~~Commissioner's~~ discretion, be subject to civil penalties of up to ten thousand dollars ($10,000.00) per violation for each violation, which may be assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, whenever a pattern or practice of such activity is found. Any provider reimbursed or carrier paying an amount which is in excess of these Rules shall have a period of ninety (90) calendar days from the time of receipt/payment of such excessive payment in which to refund/recover the overpayment amount. Overpayments refunded/recovered within this time period shall not constitute a violation under these Rules. At the discretion of the Administrator~~Commissioner~~, the Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~, such provider may also be reported to the appropriate certifying board, and may be subject to exclusion from participating in providing care under the Act. Any other violation of the Medical Cost Containment Program Rules, Medical Fee Schedule Rules, or the In-patient Hospital Fee Schedule Rules shall subject the violator(s) to a civil penalty of not less than one hundred dollars ($100.00) nor more than ten thousand dollars ($10,000.00) per violation, at the discretion of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~.

(4) Any request for a hearing shall be filed with the Division within fifteen (15) calendar days of the date of issuance of the Notice of Violation and, if applicable, of civil penalty. Failure to file a request for a hearing within fifteen (15) calendar days of the date of issuance of the Notice of Violation shall result in the decision of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~ becoming a final order and not subject to further review.

In-Patient Hospital Fee Schedule
Chapter 0800-02-19

0800-02-19-.02 DEFINITIONS.

(1) "Administrator" means the chief administrative officer of the Division of Workers' Compensation of the Tennessee Department of Labor and Workforce Development, or the Administrator's designee.

(2) "Allowed Charges" or "Allowable Charges" shall mean charges reviewed and approved under

an appropriate audit and utilization review by the carrier as prescribed in the Division's Rules, or as determined by the Administrator ~~Commissioner~~ or the Administrator's ~~Commissioner's~~ designee after consultation with the Division's Medical Director.

0800-02-19-.06 PENALTIES FOR VIOLATIONS OF FEE SCHEDULES.

(1) Providers shall not accept and employers or carriers shall not pay any amount for health care services provided for the treatment of a covered injury or illness or for any other services encompassed within the Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, when that amount exceeds the maximum allowable payment established by these Rules. Any provider accepting and any employer or carrier paying an amount in excess of the Division's Medical Cost Containment Program Rules, Medical Fee Schedule Rules or the In-patient Hospital Fee Schedule Rules, shall be in violation of these Rules and may, at the Administrator's ~~Commissioner's~~ discretion, be subject to civil penalties of up to ten thousand dollars ($10,000.00) per violation for each violation, which may be assessed severally against the provider accepting such fee and the carrier or employer paying the excessive fee, whenever a pattern or practice of such activity is found. Any provider reimbursed or carrier paying an amount which is in excess of these Rules shall have a period of ninety (90) calendar days from the time of receipt/payment of such excessive payment in which to refund/recover the overpayment amount. Overpayments refunded/recovered within this time period shall not constitute a violation under these Rules. At the discretion of the Administrator~~Commissioner~~, the Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~, such provider may also be reported to the appropriate certifying board, and may be subject to exclusion from participating in providing care under the Act. Any other violation of the Medical Cost Containment Program Rules, Medical Fee Schedule Rules, or the In-patient Hospital Fee Schedule Rules shall subject the violator(s) to a civil penalty of not less than one hundred dollars ($100.00) nor more than ten thousand dollars ($10,000.00) per violation, at the discretion of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~.

(5) Any request for a hearing shall be filed with the Division within fifteen (15) calendar days of the date of issuance of the Notice of Violation and, if applicable, of civil penalty. Failure to file a request for a hearing within fifteen (15) calendar days of the date of issuance of the Notice of Violation shall result in the decision of the Administrator~~Commissioner~~, Administrator's~~Commissioner's~~ Designee, or an agency member appointed by the Administrator~~Commissioner~~ becoming a final order and not subject to further review.

Medical Impairment Rating Registry Program
Chapter 0800-02-20

0800-02-20-.01 DEFINITIONS. The following definitions are for the purposes of this chapter only:

(2) "Administrator" means the chief administrative officer of the Workers' Compensation Division of the Tennessee Department of Labor and Workforce Development, or the Administrator's designee.

(10) "Form" means the "Application for a Medical Impairment Rating," required to be used to request a MIR Registry physician from the Administrator~~Commissioner~~. The Form is available upon request from the Department or online at www.state.tn.us/labor-wfd/mainforms.html.

(12) "Medical Director" means the Division's Medical Director, appointed by the Administrator ~~Commissioner~~ pursuant to T.C.A. § 50-6-126 (Repl. 1999) or the Medical Director's designee.

(13) "Medical Impairment Rating Registry" or "MIR Registry" means the registry or listing of physicians established by the Administrator ~~Commissioner~~ pursuant to Tenn. Code Ann. § 50-6-204 (2005) to perform independent medical impairment ratings when there is a dispute as to the degree of medical impairment, as defined in 0800-02-20-.01(5) above.

0800-02-20-.04 REQUISITE PHYSICIAN QUALIFICATIONS FOR INCLUSION ON MEDICAL IMPAIRMENT RATING REGISTRY.

(1) A physician seeking appointment to the MIR Registry shall make application and must satisfy the following qualifications:

(b) Be board-certified in his/her medical specialty by a board recognized by the American Board of Medical Specialties, the American Osteopathic Association or another organization acceptable to the Administrator~~Commissioner~~;

(c) Have successfully completed a training course, approved by the Administrator~~Commissioner~~, dedicated to the proper application of the applicable edition of the American Medical Association Guides to the Evaluation of Permanent Impairment (hereafter the "AMA Guides") in impairment evaluations and furnish satisfactory evidence thereof; and

0800-02-20-.05 APPLICATION PROCEDURES FOR PHYSICIANS TO JOIN THE REGISTRY.

(1) Appointment to the MIR Registry shall expire upon a physician's decision to withdraw from the Registry or the Division's removal of a physician from the Registry. The Division reserves the right to charge physicians a non-refundable application fee upon appointment or reinstatement to the MIR Registry. For each application, an advisory panel of three (3) current MIR Registry physicians shall be randomly selected by the Program Coordinator to review the application. The Panel shall include one member from each grand division of the state who shall have been on the MIR Registry for at least five (5) years without any disciplinary actions imposed by the Department. Each member of the panel shall vote to either recommend or not recommend the applicant for inclusion on the MIR Registry. The Administrator~~Commissioner~~, upon the advice of the Medical Director, Program Coordinator, and the advisory panel, shall have the sole and exclusive authority to approve or reject applications for inclusion on the MIR Registry.

(2) Physicians seeking appointment to the MIR Registry shall complete an "Application for Appointment to the MIR Registry," available upon request or on-line at www.state.tn.us/laborwfd/mainforms.html, certify to and, upon approval of the application, comply with the following conditions:

(d) While on the MIR Registry, agree to maintain an active and unrestricted license to practice medicine or osteopathy in Tennessee and to immediately notify the Administrator ~~Commissioner~~ of any change in the status of the license, including any restrictions placed upon the license;

(e) While on the MIR Registry, agree to maintain all board certifications listed on the application and to immediately notify the Administrator ~~Commissioner~~ of any change in their status;

(k) No later than fifteen (15) calendar days after a request by the Program Coordinator to refund to the paying party part or all of any fee paid by that party for a MIR Registry evaluation, as may be required by these Rules and the Administrator~~Commissioner~~; and

(3) Physicians denied appointment to the MIR Registry by the Administrator ~~Commissioner~~ or Administrator's~~Commissioner's~~ designee on their initial application may seek reconsideration of their application by submitting a request for reconsideration stating the grounds for such reconsideration to the Program Coordinator within fifteen (15) calendar days of the issuance of the Notice of Denial of their application. The Administrator ~~Commissioner~~ may affirm or reverse the initial determination upon reconsideration of the initial decision. The

AdministratorCommissioner shall issue a Notice of Final Determination which shall be the final decision. If the Administrator Commissioner does not act on the request for reconsideration within twenty (20) calendar days, then the request shall be deemed to have been denied, which shall be the final decision.

0800-02-20-.06 REQUESTS FOR A MIR REGISTRY PHYSICIAN.

(1) When a dispute of the degree of medical impairment, as defined in Rule 0800-02-20-.06 exists, any party may request a listing of physicians from the Administrator's Commissioner's MIR Registry by completing the "Application for Medical Impairment Rating" (hereinafter "Form"), available upon request from the Department or online at www.state.tn.us/labor-wfd/mainforms.html. The completed Form must then be returned to the Program Coordinator via electronic mail, facsimile or U.S. Mail.

(3) The Administrator Commissioner requires the request for a MIR Registry physician designate:

(5) If the parties cannot agree upon selection of a MIR Registry physician from the Administrator's Commissioner's listing of MIR Registry physicians provided within fifteen (15) calendar days of the Program Coordinator issuing the requested listing, it shall be the responsibility of the employer to provide a written request to the Program Coordinator to provide a three physician list by submitting such request on the Form. A written opinion as to the permanent impairment rating given by the MIR Registry physician selected pursuant to this Rule shall be presumed to be the accurate impairment rating.

(7) The three (3) physician listing.

(a) Within five (5) business days of receipt of the completed "Application for a Medical Impairment Rating," the Division shall produce a list of three qualified physicians drawn from the Administrator's Commissioner's MIR Registry, from which one physician shall be designated to perform the evaluation. The three-physician listing created will be comprised of physicians qualified, based on the information provided by the physician and on their accreditation to perform evaluations of the body part(s) and/or medical condition(s) designated on the application for an evaluation. Psychiatric or psychological evaluations regarding mental and/or behavioral impairment shall be performed by a psychiatrist.

(10) Submission of Medical Records.

(d) Medical bills, adjustor notes, surveillance tapes, denials, vocational rehabilitation reports, case manager records, commentaries, depositions, or any other document deemed by the Administrator Commissioner to compromise the impartiality of the review shall not be submitted to the MIR Registry physician.

0800-02-20-.07 PAYMENTS/FEES.

(2) The evaluation fee includes normal record review, the evaluation, and production of a standard "MIR Report." At the Administrator's Commissioner's sole discretion, the evaluation fee may be increased up to an additional $250.00 if the time required for the record review, evaluation, or production of the MIR Report is extraordinary. All non-routine test(s) for an impairment rating essential under the applicable edition of the AMA Guides to the Evaluation of Permanent Impairment shall have been performed prior to the evaluation. Routine tests necessary for a complete evaluation, such as range of motion or spirometry tests, should be performed by the MIR Registry physician as part of the evaluation at no additional cost. Any additional xrays that the registry physician deems necessary to render the MIR Report must be approved in writing by the Program Coordinator and are subject to the Medical Fee Schedule.

(3) Cancellations. To be considered timely, notice of a party's desire to cancel an evaluation appointment shall be given to the Program Coordinator at least three (3) business days prior to the date of the evaluation. An evaluation may be canceled or rescheduled only after obtaining the consent of the AdministratorCommissioner. The Administrator Commissioner shall decide whether an evaluation may be rescheduled within ten (10) calendar days of a request to cancel.

(a) If the request is not timely, the MIR Registry physician shall be entitled to collect/retain a $300.00 cancellation fee. If the evaluation is rescheduled, the MIR Registry physician is entitled to the entire evaluation fee (for the scheduled evaluation) in addition to this fee.

1. If the claimant fails to appear for the evaluation with good cause, the Program Coordinator shall reschedule the evaluation.

2. If the claimant fails to appear for the evaluation without good cause as determined by the AdministratorCommissioner, this may be deemed a refusal to comply with a reasonable request for medical examination and the injured employee's right to compensation may be suspended pursuant to Tenn. Code Ann. § 50-6-204(d)(8) and no compensation shall be due and payable while the injured employee continues such refusal.

0800-02-20-.09 COMMUNICATION WITH REGISTRY PHYSICIANS.

(1) During the MIR physician selection process, registry physicians cannot render opinions as to the impairment relating to the subject injury to a party to the case in cases in which the physician's name appears on the three-physician listing. MIR Registry physicians who have rendered an opinion as to the impairment relating to the subject injury to a party to the case must disclose the nature and extent of those discussions to the Administrator Commissioner immediately upon their selection as the MIR registry physician. The Administrator Commissioner, in his or her sole authority, will determine whether or not a conflict of interest exists. Failure to disclose a potential conflict of interest may result in a physician's removal from the MIR Registry. While removed from the Registry, physicians shall not be eligible to perform MIR evaluations.

0800-02-20-.13 REMOVAL OF A PHYSICIAN FROM THE REGISTRY.

(1) The AdministratorCommissioner, upon the advice of the Medical Director, may remove a physician from the MIR Registry permanently or temporarily. In doing so, the Administrator Commissioner shall first notify the physician in writing that he or she is at risk of being removed from the MIR Registry. The procedures followed for removal under this section shall follow the same procedures as those set forth below in Rule 0800-02-20-.13(2) and (3). The Administrator Commissioner may remove a physician from the MIR Registry permanently or temporarily based upon any of the following grounds:

(a) Misrepresentation on the "Application for Appointment to the MIR Registry" as determined by the AdministratorCommissioner;

(b) Failure to timely report a conflict of interest in a case assignment, as determined by the AdministratorCommissioner;

(c) Refusal or substantial failure to comply with the provisions of these Rules, including, but not limited to, failure to determine impairment ratings correctly using the AMA Guides, as determined by the Medical Director;

(d) Failure to maintain the requirements of the Rules, as determined by the the Administrator Commissioner; or

(e) Any other reason for the good of the Registry as determined solely and exclusively by ~~the~~ the Administrator ~~Commissioner~~.

(2) Written complaints regarding any MIR Registry physician shall be submitted to the Program Coordinator. Upon receipt of a complaint regarding a MIR Registry physician, the Administrator ~~Commissioner~~ shall send written notice of the complaint (or in cases arising under Rule 0800-02-20-.13(1), notice and grounds for possible removal) to such physician, stating the grounds, and notifying the physician that he or she is at risk of being removed from the MIR Registry.

(a) The physician shall have thirty (30) calendar days from the date the Notice of Complaint in which to respond in writing to the complaint(s), and may submit any responsive supporting documentation to the Program Coordinator for consideration. Failure of the physician to submit a timely response to the Notice of Complaint may result in removal of the physician from the MIR Registry.

(b) The Administrator~~Commissioner~~, in consultation with the Medical Director, shall consider the complaint(s) and any response(s) from the physician in reaching a decision as to whether the physician shall be removed from the MIR Registry, and if removed, whether the removal will be permanent or temporary.

(c) Upon reaching a determination on the complaint(s), the Administrator ~~Commissioner~~ shall issue a written Notice of Determination and set forth the basis for the decision in such Notice. The determination set forth shall become final fifteen (15) calendar days after issuance of the Notice of Determination, unless a timely request for reconsideration is received.

(d) A MIR Registry physician may seek reconsideration of an adverse decision from the Administrator ~~Commissioner~~ by submitting a request for reconsideration stating the grounds for such reconsideration to the Program Coordinator within fifteen (15) calendar days of the issuance of the Notice of Determination. The Administrator ~~Commissioner~~ may affirm, modify or reverse the initial determination upon reconsideration of the initial decision. The Administrator ~~Commissioner~~ shall issue a Notice of Determination upon Reconsideration which shall be the final decision. If the Administrator ~~Commissioner~~ does not act on the request for reconsideration within twenty (20) calendar days, then the request shall be deemed to have been denied, which shall be the final decision.

(3) A physician who has been removed from the MIR Registry by the Administrator ~~Commissioner~~ may apply for reinstatement six (6) months after the date of removal by submitting a written request to the Program Coordinator.

0800-02-20-.14 PENALTIES.

(4) If any party engages in unauthorized communications with the MIR physician, then the Administrator ~~Commissioner~~ or Administrator's ~~Commissioner's~~ designee is authorized to assess a penalty of up to $500.00 per violation against that party.

(5) Notwithstanding any other provision in these rules to the contrary, and in addition to any other penalty provided for in these Rules and the Act, failure by any party to comply with these Rules in a manner for which no penalty has specifically been set forth herein may subject that party to civil penalties of $100.00 per violation, as determined by the Administrator~~Commissioner~~.

0800-02-20-.15 TIME LIMITS.

(1) All time limits referenced in these Rules may be extended by the Administrator ~~Commissioner~~ in his or her sole and exclusive discretion.

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the administrator (board/commission/ other authority) on 9/6/13 (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: 05/21/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 07/09/13

Date: 9/6/13

Signature: Abbie Hudgens

Name of Officer: Abbie Hudgens

Title of Officer: Administrator of the Division of Workers' Compensation

DARLENE CARVER-MCDONALD STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Subscribed and sworn to before me on: 9/6/2013

Notary Public Signature: Darlene Carver-McDonald

My commission expires on: May 8, 2017

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.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter

12-13-13
Date

Department of State Use Only

Filed with the Department of State on: 12/26/13

Effective on: 3/26/14

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Graduate Nursing Loan Forgiveness Program
STATUTORY AUTHORITY:	Tennessee Code Annotate, Section 49-4-702
EFFECTIVE DATES:	May 31, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	These proposed rules adopt changes to the Graduate Nursing Loan Forgiveness Program, which provides loans and loan forgiveness to eligible candidates for master's and postmaster's degrees in nursing education who agree to employment upon completion of the degree as a teacher or administrator in a Tennessee nursing education program at an eligible postsecondary institution. Proposed changes to these rules allow for interest to accrue from the time the program of study is completed, rather than at the end of the grace period.

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 Amendments

The Tennessee Student Assistance Corporation (TSAC) intends to file the proposed rules pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing to amend the current rules of Chapter 1640-01-03 Graduate Nursing Loan Forgiveness Program. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published.

Changes to these rules allow for interest to accrue from the time the program of study is completed, rather than at the end of the grace period.

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 key postsecondary education institution personnel to ensure that proposed compliance and/or reporting requirements can be practically applied by 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 all education institutions engaged in the administration of the Graduate Nursing Loan Forgiveness 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:

   Independent postsecondary education institutions that employ fifty (50) or fewer full-time employees that have students in attendance receiving this grant program

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

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

3. Probable effect on small businesses:

   The proposed rules were drafted to facilitate administration of the program for all postsecondary institutions and should have a positive effect on the independent postsecondary institutions employing fifty (50) or fewer full-time employees.

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

   As these proposed rules present no foreseeable cost to small businesses, 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 Graduate Nursing Loan Forgiveness Program Chapter 1640-01-03, as proposed, shall have no projected impact on local governments.

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For Department of State Use Only

Sequence Number: 12-30-13
Rule ID(s): 5648
File Date: 12/27/13
Effective Date: 5/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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

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**
1640-01-03	Graduate Nursing Loan Forgiveness Program
Rule Number	**Rule Title**
1640-01-03-.02	Definitions
1640-01-03-.06	Interest
1640-01-03-.07	Repayment

RULES OF
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-03
GRADUATE NURSING LOAN FORGIVENESS PROGRAM

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1640-01-03-.01 INTRODUCTION.

(1) These rules implement the Tennessee Graduate Nursing Loan Forgiveness Program authorized in T.C.A. § 49-4-702 in 2006 Public Acts, Chapter 882 (hereinafter called the Act). The Act makes provision for loans and loan forgiveness to certain candidates for master's and post-master's degrees in nursing education. Loan forgiveness requires employment as a teacher or administrator in a Tennessee nursing education program at an eligible postsecondary institution upon completion of the program of study.

(2) While the Act refers to the program as a "loan-scholarship," the Tennessee Student Assistance Corporation interprets the Act as establishing a loan forgiveness program because the Act requires the recipient to sign a promissory note that stipulates a repayment obligation. To avoid confusion, the working title of the program shall be the "Tennessee Graduate Nursing Loan Forgiveness Program."

Authority**: T.C.A. §§ 49-4-201, 49-4-203, 49-4-204 and 49-4-702.* ***Administrative History: *Original rule filed January 23, 1976; effective April 15, 1976. Amendment filed March 18, 1977; effective April 18, 1977. Repeal and new rule filed as a Public necessity rule filed December 11, 2006; expires May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Amendment filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.02 DEFINITIONS.

(1) As used in these rules (Chapter 1640-01-03):

(a) Cost of Attendance: The combined cost of tuition, mandatory fees, room and board, books, and other educational expenses as determined by the financial aid office of the eligible postsecondary institution.

(b) Default: The failure of a recipient in repayment status to make installment payments for a period of two hundred seventy (270) consecutive days.

(c) Deferment: A period of time in which the student's payments may be postponed, pursuant to Rule 1640-01-03-.08.

(d) Eligible Academic Program: A graduate program accredited by the National League for Nursing Accrediting Commission (NLNAC) and/or by the Commission on Collegiate Nursing Education (CCNE) and approved by the Tennessee Board of Nursing which leads to a master's or post-master's degree in a field of study which will qualify the graduate to become a teacher or administrator in a college or university nursing

education program.

(e) Eligible Postsecondary Institution:

1. A Tennessee institution that is operated by the Tennessee Board of Regents of the state university and community college system;

2. An institution in the University of Tennessee system;

3. A Tennessee private postsecondary institution that is accredited by the Southern Association of Colleges and Schools (SACS); and

4. An out-of-state institution that is accredited by a regional accrediting association and which uses distance education to deliver instruction to a graduate nursing loan recipient residing in the state of Tennessee.

(f) Full-time enrollment: The minimum number of credit hours per term necessary to be considered a full-time student, as defined by the eligible postsecondary institution.

(g) Grace period: The three (3) month period of time that begins when the recipient either completes his or her eligible academic program or no longer meets the graduate nursing loan eligibility requirements, and during which period of time interest ~~does not~~ accrues, ~~and~~ but repayment is not required.

(h) Graduate Nursing Loan: The loan-scholarship referenced in T.C.A. § 49-4-702.

(i) Loan forgiveness: The partial or complete cancellation of a graduate nursing loan, as described in these rules.

(j) Part-time enrollment: Enrollment in fewer credit hours per term than the number necessary to be considered a full-time student, as defined by the eligible postsecondary institution.

(k) Priority Date: March 1 preceding the intended academic year of attendance, or such other date as TSAC may require.

(l) Program Administrator: The TSAC staff member assigned administrative responsibility for the graduate nursing loan forgiveness program by the Associate Executive Director for Grant and Scholarship Programs.

(m) Regional Accrediting Association: Approved accrediting agencies including the Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwestern Association of Schools and Colleges, the Southern Association of College and Schools, and the Western Association of Schools and Colleges.

(n) Satisfactory Academic Progress: A standard of progress toward completion of the eligible academic program during which the student meets minimum academic requirements and progresses towards a degree as required by the nursing education program at the eligible postsecondary institution attended.

(o) TSAC: Tennessee Student Assistance Corporation.

(p) Year of continuous full-time employment: Nine (9) to twelve (12) months of continuous employment considered by the employer to be full-time.

(q) Year of continuous part-time employment: Nine (9) to twelve (12) months of continuous employment considered by the employer to be at least half-time but less than full-time.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.03 ELIGIBILITY.

(1) To receive a graduate nursing loan a student must meet the following criteria:

(a) Be a citizen of the United States; and

(b) Be a resident of Tennessee, as defined by regulations promulgated by the Tennessee Board of Regents for the state university and community college system, under the authority of T.C.A. § 49-8-104 where applicable; and

(c) Hold an unencumbered Tennessee Registered Nurse License; and

(d) Be enrolled either part-time or full-time in an eligible academic program at an eligible postsecondary institution; and

(e) Provide written evidence of the student's intention to become employed full-time or part-time in a Tennessee nursing education program in a teaching or administrative capacity; and

(f) Maintain satisfactory academic progress; and

(g) Not owe a refund or repayment on any grant, and not be in default on any loan received at any postsecondary institution, under the provision of Title IV of the Higher Education Act of 1965, as amended, or a Tennessee student financial aid program; and

(h) Sign a promissory note before receiving any funds; and

(i) Agree to inform TSAC in writing when any change occurs in name, address, or school enrollment, and provide supporting documentation. After completing the program, the recipient shall continue to notify TSAC of any change in name or address, and when he or she has obtained a teaching or administrative position, changed teaching or administrative positions, or terminated teaching or administrative positions.

(2) Eligibility is limited to four (4) years of full-time enrollment, or the equivalent part-time enrollment, with one (1) year of full-time enrollment equaling two (2) years of part-time enrollment.

(3) In certain circumstances, a student may receive more than one graduate nursing loan. A borrower who received a (first) graduate nursing loan while earning a master's degree may apply for a (second) graduate nursing loan in a post-master's program. If the application for the second loan is successful, repayment of the first loan is deferred until the recipient enters repayment on the second loan, at which time repayment of both loans is expected. A borrower who is employed while receiving a second graduate nursing loan may apply that employment towards cancellation of the first graduate nursing loan provided that the

cancellation requirements described elsewhere in these rules are met.

(4) Eligibility is subject to the availability of funds.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Amendment filed March 18, 1977; effective April 18, 1977. Amendment filed July 17, 1991; effective October 29, 1991. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Amendment filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.04 AWARD AMOUNT.

(1) The maximum amount of the graduate nursing loan shall be seven thousand dollars ($7,000) per year during periods of full-time enrollment and three thousand five hundred dollars ($3,500) per year during periods of part-time enrollment, or such other amounts as may be established by TSAC, and shall in no instance exceed the student's cost of attendance. Awards are divided equally in disbursements of two (2) semesters or three (3) quarters payments.

(2) TSAC shall disburse the graduate nursing loan funds directly to eligible postsecondary institutions, which shall in turn credit the borrower's account or disburse funds to the eligible borrower with one (1) credit or payment at the beginning of each academic term attended.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007.*

1640-01-03-.05 APPLICATION PROCESS.

(1) The student must apply to TSAC for the graduate nursing loan by the established priority application date as required by TSAC.

(2) First priority shall be given to renewal applicants received by the priority application date.

(3) Second priority shall be given to applicants who provide satisfactory evidence to TSAC that they expect to enter a full-time teaching position in a Tennessee nursing education program immediately upon completion of their master's or post-master's degree program and who apply by the priority application date.

(4) Third priority shall be given to applicants who provide satisfactory evidence to TSAC that they expect to enter a part-time teaching position in a Tennessee nursing education program immediately upon completion of their master's or post-master's degree program and who apply by the priority application date.

(5) Fourth priority will be given to applicants who provide satisfactory evidence to TSAC that they expect to enter a full-time administrative position in a Tennessee nursing education program immediately upon completion of their master's or post-master's degree program and who apply by the priority application date.

(6) Fifth priority will be given to applicants who provide satisfactory evidence to TSAC that they expect to enter a part-time administrative position in a Tennessee nursing education program immediately upon completion of their master's or post-master's degree program and who apply by the priority application date.

(Rule 1640-01-03-.05, Continued)

(7) Sixth priority shall be given to applications received after the priority application date. Applications will be awarded based on the date of receipt.

(8) Applicants shall be grouped according to the priority assigned to their application. Should available funds be exhausted before all eligible applicants have received an award, applicants in the lowest priority grouping for which funds are available shall be distinguished by the date of receipt of their application by TSAC and awards shall be made to those applicants with the earliest dates of receipt until all available funds are expended.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Amendment filed March 18, 1977; effective April 18, 1977. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.06 INTEREST.

(1) Interest shall accrue at the rate of nine percent (9%) per year or such other rate as shall be established by TSAC~~, starting at the end of the grace period~~ after completion of the program. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007.*

1640-01-03-.07 REPAYMENT.

(1) The graduate nursing loan must be repaid unless cancelled as described elsewhere in these rules. Repayment will include the full amount of the graduate nursing loan received plus accrued interest.

(2) Repayment shall begin at the end of the grace period, or upon demand by TSAC, and shall be in monthly installments over a period of no more than eight (8) years, provided that payments must be a minimum of one hundred dollars ($100) per month.

(3) The graduate nursing loan and accrued interest may be prepaid in whole or part at any time without penalty.

(4) If the borrower of a graduate nursing loan is determined to have received the award based on inaccurate application information, the full amount of the loan and accrued interest shall become due immediately.

(5) If the borrower fails to complete an enrollment period for any reason, the postsecondary institution must determine if any of the graduate nursing loans should be returned to TSAC. The postsecondary institution should use its own institutional refund policy to calculate the refund amount. If the student withdraws after the refund period is over, the postsecondary institution must follow the Return of Title IV guidelines, if applicable, to calculate any return of the graduate nursing loan.

(6) If a borrower issues a check, draft, or warrant, ~~or electronic funds transfer,~~ which is subsequently returned to TSAC for reason of insufficient funds, a stop payment order by the issuer, or any other reason, the payment to which these funds was applied shall be reversed on the borrower's account and interest shall continue to accrue from the date of the last valid

payment. Additionally, TSAC may charge a reasonable service fee for such a transaction.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Amendment filed March 18, 1977; effective April 18, 1977. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.08 DEFERMENT.

(1) Repayment shall be deferred, but interest shall continue to accrue, while the recipient is employed in a Tennessee nursing education program in a teaching or administrative capacity.

(2) Repayment shall be deferred, but interest shall continue to accrue, while the student is seeking the post-master's degree after first receiving the loan to obtain their master's degree.

(3) Repayment shall be deferred if the recipient is unable to make payments due to financial, medical, or personal circumstances beyond the recipient's control, or other extenuating circumstances approved by the Associate Executive Director for Grant and Scholarship Programs. Such period of hardship shall not exceed two (2) years.

(4) For repayment to be deferred, recipients shall provide employment verification as required by TSAC.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed January 23, 1976; effective April 15, 1976. Amendment filed March 18, 1977; effective April 18, 1977. Repeal and new rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.09 CANCELLATION/FORGIVENESS.

(1) For each year of continuous full-time employment in a Tennessee nursing education program in a teaching or administrative capacity, the borrower shall receive a credit of twenty-five percent (25%) of the amount borrowed, plus accrued interest on that portion of the debt cancelled. Cancellation credit will be applied at the end of each year and upon receipt of verification of such service.

(2) For each year of continuous part-time employment in a Tennessee nursing education program in a teaching or administrative capacity, the borrower shall receive a credit of twelve and one-half percent (12.5%) of the amount borrowed, plus accrued interest on that portion of the debt cancelled.

(3) To receive cancellation credit, the borrower shall provide employment verification as required by TSAC.

(4) Cancellation credit shall not begin until the borrower completes the program of study for which the graduate nursing loan was provided.

(5) The debt shall be cancelled on the basis of conclusive evidence that the borrower has died or has been totally and permanently disabled and cannot perform the teaching obligation outlined in the regulations. The borrower is not considered totally and permanently disabled on the basis of a condition that existed prior to the loan application. If, at any time subsequent to an initial determination of disability, the borrower's condition improves to the

point where a total and permanent disability no longer exists, TSAC may reinstate any outstanding debt previously cancelled.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Amendment filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.10 COLLECTIONS.

(1) Due diligence requirements shall consist of the following:

(a) Provide the recipient with a signed copy of the promissory note.

(b) Notify the recipient of the repayment requirements during the grace period.

(c) Notify the recipient of repayment requirements during an approved period of deferment.

(d) Attempt to contact the recipient on no less than three separate occasions during the two hundred and seventy (270) day period in which no payments are received, beginning with the thirtieth (30th) day of delinquency and subsequent contacts no less than ninety (90) days apart.

(2) TSAC's collection activity will begin when the recipient is no longer honoring the repayment obligation. TSAC will exercise due diligence to contact the student to resolve the delinquency.

(3) TSAC will consider a recipient to be delinquent if the recipient fails to make an installment payment within thirty (30) days of the due date. Upon delinquency, TSAC will attempt to contact the recipient to give notice of the delinquency, inform the recipient of the consequences of default, and encourage the recipient to make payments as provided under the promissory note.

(4) TSAC will consider a recipient to be in default if the recipient fails make a payment for a period of two hundred seventy (270) consecutive days.

(5) Once the recipient is in default, TSAC may take one or more of the following actions:

(a) Assign the defaulted loan(s) to a collection agency.

1. Collection costs may be added to the defaulted loan at a rate not to exceed twenty percent (20%) of the original principal balance. Payments on the combined principal, interest, and collection costs shall not exceed an amount determined to be reasonable and affordable.

(b) Report to credit bureaus the default status of each loan.

(c) Make the student ineligible for state student aid programs.

(d) Submit an order of suspension, denial, or revocation to the appropriate licensing board for any Tennessee-issued professional license held by the recipient.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.11 LEAVE OF ABSENCE.

(1) Unless a leave of absence is granted, terms of enrollment must be continuous (other than the summer term), and a period of non-attendance (other than the summer term) will cause a recipient to enter repayment with no opportunity to regain eligibility.

(2) A student may be granted medical or personal leave of absence from attendance at an eligible postsecondary institution and resume receiving the nursing loan upon resumption of the student's attendance at an eligible postsecondary institution so long as all other applicable eligibility criteria are met. An eligible postsecondary institution may grant leaves of absence only for medical or personal reasons. Allowable medical or personal reasons shall include, but not be limited to, illness of the student, illness or death of an immediate family member, extreme financial hardship of the student or student's immediate family, a military obligation of the student or family member, an obligation to fulfill a religious commitment expected of all individuals of that faith, or other extraordinary circumstances beyond the student's control where continued 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 seek relief from the decision in accordance with Rule 1640-01-03-.12.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed as a Public necessity rule on December 11, 2006; effective through May 25, 2007. Original rule filed December 11, 2006; effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-03-.12 APPEALS PROCEDURE.

(1) TSAC shall provide written notice to a student of an adverse decision relative to a student's application for an award or request for a leave of absence. A student who disagrees with such decision and wants the decision reviewed must request a review of the decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the written notice provided by TSAC. Such request shall include a statement of the reason or reasons for the request for review and all information supporting the student's position regarding the decision.

(2) Review of the TSAC decision shall be made by the TSAC Associate Executive Director for Grant and Scholarship Program, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(3) Review of the decision of the TSAC Associate Executive Director for Grant and Scholarship Programs shall be made by the TSAC Executive Director, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(4) Review of the decision of the TSAC Executive Director shall be made by the TSAC Appeals Committee, who shall issue a written decision to the student. The decision of the TSAC Appeals Committee is the final administrative remedy. There shall be no right to judicial review of a decision of the TSAC Appeals Committee.

(Rule 1640-01-03-.12, Continued)

Authority: *T.C.A. §§ 49-4-20l, 49-4-203, 49-4-204, and 49-4-702.* ***Administrative History:*** *Original rule filed as a Public necessity rule on December 11, 2006: effective through May 25, 2007. Original rule filed December 11, 2006: effective April 30, 2007. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Haslam, by Mr. Mark Cate	X				
Dr. Richard Rhoda By Dr. Russ Deaton	X				
Dr. Claude Pressnell	X				
Mr. David H. Lillard, Jr., by Mr. Andy McArthur	X				
Comptroller Justin P. Wilson, by Mr. Joseph Woodson	X				
Commissioner Larry Martin, by Greg Turner	X				
Commissioner Kevin Huffman, by Mr. Morgan Branch	X				
Chancellor John Morgan by David Gregory	X				
Dr. Joe Dipietro, by Dr. Katie High				X	
Dr. Betty Sue McGarvey By Dr. Gary Weedman	X				
Dr. J. Gary Adcox				X	
Mr. Jeff Gerkin	X				
Ms. Keri McInnis	X				
Dr. LaSimba Gray	X				
Mr. Cody Noble				X	
Mr. Daniel Webb				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on 09/26/2013, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 10.10.13

Signature:

Name of Officer: Richard G. Rhoda

Title of Officer: Executive Director, Tennessee Student Assistance Corp.

CORSINA DICKSON-WILEY STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN

My Commission Expires AUG. 23, 2016

Subscribed and sworn to before me on: 10-10-2013

Notary Public Signature:

My commission expires on: 08-23-2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-5-13
Date

Department of State Use Only

Filed with the Department of State on: 12/27/13

Effective on: 5/31/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Minority Teaching Fellows Program
STATUTORY AUTHORITY:	Tennessee Code Annotate, Section 49-4-706
EFFECTIVE DATES:	May 31, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	These proposed rules adopt changes to the Minority Teaching Fellows Program, which is a $5,000 annual award for students who pursue a teacher certification at an eligible Tennessee college or university. The program is intended to encourage talented minority Tennesseans to enter the teaching field in Tennessee. Changes to these rules clarify the definition for grace period, clarify the conditions under which repayment begins, and allow for interest to accrue from September 1 after completion of the program or immediately following early termination of the program, rather than from the date of disbursement.

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 Amendments

The Tennessee Student Assistance Corporation (TSAC) intends to file the proposed rules pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing to amend the current rules of Chapter 1640-01-13 Minority Teaching Fellows Program. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published.

Changes to these rules clarify the definition for grace period, clarify the conditions under which repayment begins, and allow for interest to accrue from September 1 after completion of the program or immediately following early termination of the program, rather than from the date of disbursement.

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 key postsecondary education institution personnel to ensure that proposed compliance and/or reporting requirements can be practically applied by 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 all education institutions engaged in the administration of the Minority Teaching Fellows 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:

   Independent postsecondary education institutions that employ fifty (50) or fewer full-time employees that have students in attendance receiving this grant program

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

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

3. Probable effect on small businesses:

   The proposed rules were drafted to facilitate administration of the program for all postsecondary institutions and should have a positive effect on the independent postsecondary institutions employing fifty (50) or fewer full-time employees.

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

   As these proposed rules present no foreseeable cost to small businesses, 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 Minority Teaching Fellows Program Chapter 1640-01-13, as proposed, shall have no projected impact on local governments.

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For Department of State Use Only

Sequence Number: 12-31-13
Rule ID(s): 5649
File Date: 12/27/13
Effective Date: 5/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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

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**
1640-01-13	Minority Teaching Fellows Program
Rule Number	**Rule Title**
1640-01-13-.02	General
1640-01-13-.05	Loan Amount and Terms

RULES OF
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-13
MINORITY TEACHING FELLOWS PROGRAM

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1640-01-13-.01 INTRODUCTION.

(1) These rules implement the Minority Teaching Fellows Program (MTFP) authorized by T.C.A. § 49-4-706 in Public Chapter 202 of the 1989 Public Acts (hereinafter referred to as the "Act"). The Act provides for a fellowship award for minority Tennesseans who are preparing to become teachers. Recipients who become public school teachers in Tennessee shall receive forgiveness of the fellowship balance based on one (1) year's teaching service for each year the fellowship was awarded. The Tennessee Student Assistance Corporation (TSAC) shall administer the program under regulations and criteria developed jointly with the Tennessee State Board of Education and the Tennessee Higher Education Commission (THEC).

Authority: *T.C.A. §§ 49-4-201, 49-4-204 and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Amendment filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.02 GENERAL.

(1) Definitions. As used in these regulations (Chapter 1640-01-13):

(a) Academic year: A period of time, typically nine (9) months, and is composed of two (2) semesters.

(b) Act: T.C.A. § 49-4-706 as found in Public Chapter 202 of the Public Acts of 1989.

(c) Default: The failure of a recipient in repayment status to make installment payments for a period of two hundred seventy (270) consecutive days.

(d) Deferment: A period of time in which the student's payments may be postponed, pursuant to Rule 1640-01-13-.05.

(e) 'Eligible schools: Tennessee public schools approved by the Tennessee State Board of Education in which recipients may teach for cancellation credit towards their loans at a prekindergarten, kindergarten, elementary, or secondary level in Tennessee.

(f) Full-time teaching: A minimum of fifty percent (50%) of the recipient's weekly workload is devoted to teaching, exclusive of administrative, teaching assistance, after-school programs, counseling, or other assigned duties.

(g) Full year of teaching service: Two (2) semesters of full-time teaching. Recipients must teach at least ninety (90) days each semester, or one hundred eighty (180) days for the

academic year.

(h) Grace period: A period of one (1) year that shall begin on the date the student completes his or her plan of study~~, in which repayment is not required, but interest shall accrue on the loan from the date of each disbursement~~.

(i) Minority A person who is Black or African American, a person having origins in any of the black racial groups of Africa; Hispanic or Latino, a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent; Native Hawaiian or Other Pacific Islander, a person having origins in the Pacific Islands; or American Indian or Alaska Native, a person having origins in any of the original peoples of North America.

(j) Plan of study: A plan of enrollment within which the applicant may complete requirements for licensure in an eligible field of study. The plan is transferable among Tennessee higher education institutions provided such transfer is approved by the receiving institution.

(k) Promissory Note: A signed statement certifying a candidate's intent to become a teacher in a public school system of Tennessee at the prekindergarten, kindergarten, elementary, or secondary level and their obligation to repay the loan should they fail to fulfill the teaching requirements.

(l) Repayment period: A period of not more than ten (10) years in which the loan will be repaid and shall begin at the end of the grace period, or when TSAC determines that the recipient has not complied with the requirements of the Act.

(m) Satisfactory progress: A standard of progress toward completion of the pursued plan of study during which the student maintains at least a 2.5 cumulative grade point average (GPA) or, if required by the institution attended, a higher GPA. After two (2) or more semesters of attendance, if a student's cumulative GPA is no more than 0.1 below the required GPA, the student may continue on probation for one (1) semester. After the probation semester, the cumulative GPA must be at least 2.5, or higher if required by the institution attended. The student may have only one (1) semester of probation during eight (8) semesters of eligibility in the program.

(n) TSAC: Tennessee Student Assistance Corporation.

(2) All recipients must attend a Tennessee college or university on a full-time basis as determined by the institution's written policies to be eligible, excluding periods of internship and/or student teaching. During such periods of internship and/or student teaching, recipients must be enrolled at least half-time, but may be enrolled less than full-time as mandated by the written policies of the educational institution.

(3) Funds received from this program are considered financial assistance for purposes of determining student assistance eligibility under programs authorized by Title IV of the Higher Education Act of 1965, as amended.

(4) All such loans shall be evidenced by notes payable to TSAC.

(5) Any applications received or approved shall be subject to the availability of funds.

(6) Applications must be submitted on TSAC-approved forms by April 15, which immediately

precedes the academic year for which the student is applying. The April 15 cut-off date may be extended by the TSAC Associate Executive Director for Grant and Scholarship Programs should it be determined necessary for the purpose of utilizing all available funds.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Amendment filed April 2, 1996; effective August 28, 1996. Amendment filed October 20, 1997; effective February 27, 1998. Amendment filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.03 ELIGIBILITY.

(1) The successful applicant must meet all of the following criteria:

(a) Be a citizen of the United States.

(b) Be a resident of Tennessee as defined by regulations promulgated by the Tennessee Board of Regents.

(c) Be a minority.

(d) Be admitted to or enrolled in an accredited institution of higher education in Tennessee from which credits earned are recognized by the State to be applicable to a teacher certification program. Awards may also be granted to students admitted to or enrolled in an accredited two-year institution of higher education, provided that a plan of study is pursued which is transferable to a college or university in Tennessee and will lead to licensure, which will then be used to teach in a public school at a prekindergarten, kindergarten, elementary, or secondary level in the State, provided that the plan of study can be completed within a four-year period calculated from the date of the first disbursement.

(e) Submit to TSAC a signed Promissory Note to teach full-time in a Tennessee public prekindergarten, kindergarten, elementary or secondary school one (1) year for each year an award is received, or repay the loan should they fail to fulfill the teaching requirements.

(f) Not accept any financial aid that carries with it a conflicting service obligation. For the purposes of this program, participation in the Tennessee Teaching Scholars Program shall be considered as accepting aid that carries a conflicting service obligation.

(g) Submit a completed TSAC-approved application to TSAC by the established deadline.

(h) Submit to TSAC copies of all official transcripts and the most recent test scores.

(i) Submit an essay on "Why I Chose Teaching as a Profession" as outlined in the MTFP application guidelines.

(j) Submit to TSAC two letters of recommendation attesting to the student's commitment to teaching: one personal recommendation and one from a school official.

(k) Agree to inform TSAC in writing when any change occurs in name, address, or school enrollment, and provide supporting documentation. After obtaining teacher licensure, the recipient shall continue to notify TSAC of any change in name or address, and when he or she has obtained a teaching position, changed teaching assignments, or terminated teaching service.

(l) Not owe a refund or repayment on any grant, and is not in default on any loan, received at any postsecondary institution, under the provisions of Title IV of the Higher Education Act of 1965, as amended.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Amendment filed October 20, 1997; effective February 27, 1998. Amendment filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.04 METHOD OF SELECTION.

(1) Each year that funds are available, the Executive Director of TSAC with representatives of the State Board of Education, the TDOE, and THEC shall form a selection committee that shall determine the ranking of applicants in accordance with the ranking system adopted by the four agencies.

(2) The following priority groups have been established for this program:

(a) First priority shall be given to eligible renewal applicants.

(b) Second priority shall be given to eligible college students who have a 2.5 college GPA, are enrolled full-time, and are taking courses creditable to teacher education.

(c) Third priority shall be given to eligible entering freshmen who have a 2.75 high school GPA and an ACT composite score of at least 18 (or the equivalent SAT total score).

(3) Until all qualified applicants from the higher priority group(s) who have submitted their applications by the deadline have been offered the award, no applicants from a lower group may be considered for selection.

(4) The ranking of applicants must consider grade point average, standardized test scores, evidence of commitment (experiences that would indicate an interest in teaching), and other such factors that shall be identified as relevant to meeting the goals and interests of the Act.

Authority: *T.C.A. §§ 49-4-201, 49-4-203, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Amendment filed October 20, 1997; effective February 27, 1998. Amendment filed December 22, 1997; effective April 30, 1998. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.05 LOAN AMOUNT AND TERMS.

(1) All loans shall be evidenced by promissory notes payable to TSAC.

(2) Funds will be sent by Automated Clearing House (ACH) to the institution's financial aid office or business office in the recipient's name and shall be disbursed on a semester pro rata basis. The institution will be directed to deliver the funds to the recipient. The maximum award for a recipient and opportunities for renewal shall be as described in T.C.A. § 49-4-706. If the recipient receives other educational assistance for the same period(s), the total assistance including this award is limited to the recipient's cost of attendance, as determined by the institution's financial aid office.

(3) The awards may be transferred from one eligible institution of higher education to another

provided that a TSAC-approved transfer form is submitted to TSAC.

(4) Cancellation

(a) For each year of full-time teaching service at an eligible school, as defined in these regulations, the recipient shall receive cancellation credit of one (1) academic year's award (the equivalent of two (2) semesters) toward repayment of the loan. If a recipient teaches in an eligible school that is high priority or on warning status as designated by the Tennessee Department of Education or the State Board of Education, the recipient's obligation will be canceled at a rate of one and one-third (1 1/3) of the total annual award.

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

(c) A grace period of one (1) year will be granted to allow the recipient opportunity to secure employment to begin cancellation credit. When a recipient has obtained a full-time teaching position at an eligible school, some or all of the grace period may be waived at the recipient's written request.

(d) Recipients in teaching positions, which qualify them for cancellation credit, must notify TSAC of that teaching status. Individuals whom TSAC has determined to be in a full-time teaching position at an eligible school shall be granted a postponement on repayment to allow them the opportunity to complete a full year of teaching. At the end of such period, cancellation credit will be applied upon receipt of the verification of such service.

(e) The debt shall be canceled due to the death of the recipient upon documentation deemed acceptable by TSAC.

(f) If a recipient is determined to be totally and permanently disabled under the standards established by T.C.A., Title 8, Chapter 36, Part 5, for determining disability for members of the Tennessee Consolidated Retirement System, the outstanding debt shall be canceled. A recipient is not considered totally and permanently disabled on the basis of a condition that existed prior to his or her application unless the recipient's condition has substantially deteriorated since he or she submitted the application. If at any time subsequent to an initial determination of disability the recipient's condition improves to the point where a total and permanent disability no longer exists, TSAC may reinstate any outstanding debt previously canceled.

(5) Repayment

~~(a) The loan must be repaid should the recipient choose not to honor the terms and conditions of the loan agreement. Repayment will include the full amount of the loan funds received plus interest accrued from the date of each disbursement of the award. The interest accrued is determined by an interest rate of nine percent (9%) per annum. Repayment may be in whole or in monthly installments of at least one hundred dollars ($100) over a period of not more than ten (10) years from the end of the grace period. Payments of less than the amount required to amortize the loan within ten (10) years may be made only if the recipient documents to TSAC's satisfaction his or her inability to make payments of that amount. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized.~~

(~~b~~a) Repayment for recipients who complete the plan of study shall begin ~~upon demand by TSAC, or~~ in the first month following the end of the grace period or upon demand by TSAC should TSAC determine that the recipient will not fulfill the service requirement. Interest shall begin to accrue September 1 after completion of the program~~on the date of each disbursement of the award(s)~~.

The interest shall accrue at a rate of nine percent (9%) per annum. Repayment may be in whole or in monthly installments of at least one hundred dollars ($100) over a period of not more than ten (10) years from the end of the grace period. Payments of less than the amount required to amortize the loan within ten (10) years may be made only if the recipient documents to TSAC's satisfaction his or her inability to make payments of that amount. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized

(~~c~~b) Repayment for recipients who fail to complete the funded plan of study shall begin upon demand by TSAC, or in the first month after TSAC has determined that the student is no longer enrolled in a teacher education program or other failure to comply with the terms of the agreement.

Repayment will include the full amount of the loan funds received plus interest accrued from the date TSAC has determined that the student is no longer enrolled in a teacher education program or other failure to comply with the terms of the agreement ~~of disbursement~~ and shall be based upon ~~the~~ an interest rate of nine percent (9%) per annum ~~interest rate from the time of each disbursement~~. Repayment may be made in whole or monthly installments over a period of not more than ten (10) years from the date of failure to complete the plan of study. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized. If a borrower issues a check, draft, or warrant ~~or electronic funds transfer~~, which is subsequently returned to TSAC for reason of insufficient funds, a stop payment order by the issuer, or other reason, the payment to which these funds was applied shall be reversed on the borrower's account and interest shall continue to accrue from the date of the last valid payment.

(~~d~~c) Repayment of principal and interest will be prorated for partial service cancellation to reflect each full academic year taught. Such repayment shall begin upon demand by TSAC, or in the first month following termination of the creditable teaching service. Repayment of the non-canceled portion of the loan may be made in whole or in monthly installments over the remaining months of the ten (10) year repayment period. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized. Minimum monthly payments of one hundred dollars ($100) will be required unless an exception as described in (5)(a) of this rule is granted.

(~~e~~d) If a recipient should re-enter teaching at an eligible school after commencing monetary repayment, the repayments already made cannot be returned to the recipient. However, additional repayment balances that were not in arrears at the time of the reentry into teaching may be "forgiven" by subsequent teaching service.

(6) Repayment of principal may be deferred, but interest shall accrue, during any period while the recipient is enrolled as a full-time student in an accredited institution of higher learning, or other extenuating circumstances as determined by the Associate Executive Director for Grant and Scholarship Programs of TSAC. To be eligible for deferment the recipient must request a deferment in writing and complete a TSAC-approved deferment form on a semi-annual basis.

(7) Deferments must be verified on a semi-annual basis and supporting documentation shall be

provided to TSAC if requested. A student may be granted a deferment based on one or more of the following reasons:

(a) Enrollment not seeking a teaching certificate: The student is still enrolled in an accredited institution, but is no longer seeking a teaching licensure, and shall not exceed three (3) years.

(b) Enrollment seeking a teaching certificate: The student has not yet completed the requirements for a teaching licensure, is still enrolled at least half-time at an accredited postsecondary institution, is making satisfactory progress toward a teacher licensure, and shall not exceed four (4) years.

(c) Hardship: A period of time in which the recipient is unable to make payments due to financial, medical, or personal circumstances beyond the recipient's control, or other extenuating circumstances approved by the Associate Executive Director for Grant and Scholarship Programs. Such period of hardship shall not exceed two (2) years.

(d) Military duty: The student has been called into active duty and shall not exceed the time of deployment.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Amendment filed July 17, 1991; effective October 29, 1991. Amendment filed October 20, 1997; effective February 27, 1998. Amendment filed September 17, 1998; effective January 28, 1999. Amendment filed June 30; effective October 28, 2000. Amendment filed July 26, 2000; effective November 28, 2000. Amendment filed August 29, 2000; effective December 29, 2000. Amendment filed August 6, 2002; effective December 27, 2002. Amendments filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.06 COLLECTIONS.

(1) Due diligence requirements shall consist of the following:

(a) Provide the recipient with a signed copy of the promissory note.

(b) Notify the recipient of the repayment requirements during the grace period.

(c) Notify the recipient of repayment requirements during an approved period of deferment.

(d) Attempt to contact the recipient on no less than three separate occasions during the two hundred seventy (270) day period in which no payments are received, beginning with the thirtieth (30th) day of delinquency and subsequent contacts no less than ninety (90) days apart.

(2) TSAC's collection activity will begin when the recipient is no longer honoring the repayment obligation. TSAC will exercise due diligence to contact the student to resolve the delinquency.

(3) TSAC will consider a recipient to be delinquent if the recipient fails to make an installment payment within thirty (30) days of the due date. Upon delinquency, TSAC will attempt to contact the recipient to give notice of the delinquency, inform the recipient of the consequences of default, and encourage the recipient to make payments as provided under the promissory note.

(Rule 1640-01-13-.06, continued)

(4) TSAC will consider a recipient to be in default if the recipient fails make a payment for a period of two hundred seventy (270) consecutive days.

(5) Once the recipient is in default, TSAC may take one or more of the following actions:

(a) Assign the defaulted loan(s) to a collection agency.

1. Collection costs may be added to the defaulted loan at a rate not to exceed twenty (20%) of the original principal balance. Payments on the combined principal, interest, and collection costs shall not exceed an amount determined to be reasonable and affordable

(b) Report to credit bureaus the default status of each loan.

(c) Make the student ineligible for state student aid programs.

(d) Submit an order of suspension, denial, or revocation to the appropriate licensing board for any Tennessee-issued professional license held by the recipient.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.07 REPEALED.

Authority: *T.C.A. §49-4-204.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Repeal of rule filed December 6, 2007; effective April 29, 2008. Repeal and reserved status filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.08 APPEALS PROCEDURES.

(1) TSAC shall provide written notice to a student of an adverse decision relative to a student's application for scholarship or scholarship award. A student who disagrees with such decision and wants the decision reviewed must request a review of the decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the written notice provided by TSAC. Such request shall include a statement of the reason or reasons for the request for review and all information supporting the student's position regarding the decision.

(2) Review of the TSAC decision shall be made by the TSAC Associate Executive Director for Grant and Scholarship Programs, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(3) Review of the decision of the TSAC Associate Executive Director for Grant and Scholarship Programs shall be made by the TSAC Executive Director, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(4) Review of the decision of the TSAC Executive Director shall be made by the TSAC Appeals

(Rule 1640-01-13-.08, continued)

Committee, who shall issue a written decision to the student. The decision of the TSAC Appeals Committee is the final administrative remedy. There shall be no right to judicial review of a decision of the TSAC Appeals Committee.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-706.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Repeal and new rule filed December 6, 2007; effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-13-.09 REPEALED.

Authority: *T.C.A. §49-4-204.* ***Administrative History:*** *Original rule filed July 14, 1989; effective October 29, 1989. Repeal of rule filed December 6, 2007; effective April 29, 2008.*

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Haslam, by Mr. Mark Cate	X				
Dr. Richard Rhoda By Dr. Russ Deaton	X				
Dr. Claude Pressnell	X				
Mr. David H. Lillard, Jr., by Mr. Andy McArthur	X				
Comptroller Justin P. Wilson, by Mr. Joseph Woodson	X				
Commissioner Larry Martin, by Greg Turner	X				
Commissioner Kevin Huffman, by Mr. Morgan Branch	X				
Chancellor John Morgan by David Gregory	X				
Dr. Joe Dipietro, by Dr. Katie High				X	
Dr. Betty Sue McGarvey By Dr. Gary Weedman	X				
Dr. J. Gary Adcox				X	
Mr. Jeff Gerkin	X				
Ms. Keri McInnis	X				
Dr. LaSimba Gray	X				
Mr. Cody Noble				X	
Mr. Daniel Webb				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on 09/26/2013, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 10.10.13

Signature:

Name of Officer: Richard G. Rhoda

Title of Officer: Executive Director, Tennessee Student Assistance Corp.

CORSINA DICKSON-WILEY STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

My Commission Expires AUG. 23, 2016

Subscribed and sworn to before me on: 10-10-2013

Notary Public Signature:

My commission expires on: 08-23-2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-5-13
Date

Department of State Use Only

Filed with the Department of State on: 12/27/13

Effective on: 5/31/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Tennessee Teaching Scholars Program
STATUTORY AUTHORITY:	Tennessee Code Annotate, Section 49-4-212
EFFECTIVE DATES:	May 31, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	These proposed rules will adopt changes to the Tennessee Teaching Scholars Program which is a loan forgiveness program that encourages exemplary students to enter the teaching field. Participation in the loan forgiveness program is limited to college juniors, seniors, and post-baccalaureate students formally admitted to a teacher education program in Tennessee; the award carries a service obligation of one year's teaching service for each year an award was received, and awards are up to $4,500 per academic year. Changes to these rules clarify the definition for grace period, clarify the conditions under which repayment begins, and allow for interest to accrue from September 1 after completion of the program or immediately following early termination of the program, rather than from the date of disbursement.

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 Amendments

The Tennessee Student Assistance Corporation (TSAC) intends to file the proposed rules pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing to amend the current rules of Chapter 1640-01-17 Tennessee Teaching Scholars Program. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published.

Changes to these rules clarify the definition for grace period, clarify the conditions under which repayment begins, and allow for interest to accrue from September 1 after completion of the program or immediately following early termination of the program, rather than from the date of disbursement.

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 key postsecondary education institution personnel to ensure that proposed compliance and/or reporting requirements can be practically applied by 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 all education institutions engaged in the administration of the Tennessee Teaching 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:

   Independent postsecondary education institutions that employ fifty (50) or fewer full-time employees that have students in attendance receiving this grant program

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

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

3. Probable effect on small businesses:

   The proposed rules were drafted to facilitate administration of the program for all postsecondary institutions and should have a positive effect on the independent postsecondary institutions employing fifty (50) or fewer full-time employees.

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

   As these proposed rules present no foreseeable cost to small businesses, 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 Tennessee Teaching Scholars Program Chapter 1640-01-17, as proposed, shall have no projected impact on local governments.

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For Department of State Use Only

Sequence Number: 12-32-13
Rule ID(s): 5650
File Date: 12/27/13
Effective Date: 5/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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

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**
1640-01-17	Tennessee Teaching Scholars Program
Rule Number	**Rule Title**
1640-01-17-.02	General
1640-01-17-.05	Loan Amount and Terms

RULES OF
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-17
TENNESSEE TEACHING SCHOLARS PROGRAM

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1640-01-17-.01 INTRODUCTION.

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

(2) The Tennessee Student Assistance Corporation (TSAC) shall administer the program under the regulations and criteria developed jointly with the Tennessee State Board of Education and the Tennessee Higher Education Commission (THEC). TSAC shall provide the Tennessee Department of Education (TDOE) with rosters of program participants completing teacher education programs including their areas of teaching endorsements. TDOE shall use these rosters for assisting in job placement and in considering waiver requests from local education agencies.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Amendment filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.02 GENERAL.

(1) Definitions. As used in these regulations (Chapter 1640-01-17):

(a) Academic year: A period of time, typically nine (9) months, and is composed of two (2) semesters.

(b) Act: T.C.A. § 49-4-212 as found in Public Chapter 392 of the Public Acts of 1995.

(c) Default: The failure of a recipient in repayment status to make installment payments for a period of two hundred seventy (270) consecutive days.

(d) Deferment: A period of time in which the student's payments may be postponed, pursuant to Rule 1640-01-17-.05(7).

(e) Eligible schools: Tennessee public schools approved by the Tennessee State Board of Education in which recipients may teach for cancellation credit towards their loans at a prekindergarten, kindergarten, elementary, or secondary level in Tennessee.

(f) Full-time teaching: A minimum of fifty percent (50%) of the recipient's weekly workload is devoted to teaching, exclusive of administrative, teaching assistance, after-school programs, counseling, or other assigned duties.

(g) Full year of teaching service: Two (2) semesters of full-time teaching. Recipients must teach at least ninety (90) days each semester, or one hundred eighty (180) days for the academic year.

(h) Grace period: A period of one (1) year that shall begin on the date the student completes his or her plan of study~~, in which repayment is not required, but interest shall accrue on the loan from the date of each disbursement~~.

(i) Plan of study: A plan of enrollment within which the applicant may complete requirements for licensure in an eligible field of study. The plan is transferable among Tennessee higher education institutions provided such transfer is approved by the receiving institution.

(j) Promissory Note: A signed statement certifying the candidate's intent to become a teacher in a public school system of Tennessee at the prekindergarten, kindergarten, elementary, or secondary level and their obligation to repay the loan should they fail to fulfill the teaching requirements.

(k) Repayment period: A period of not more than ten (10) years in which the loan will be repaid and shall begin at the end of the grace period, or when TSAC determines that the recipient has not complied with the requirements of the Act.

(l) Satisfactory progress: A standard of progress toward completion of the pursued plan of study during which the student maintains at least a 2.75 cumulative grade point average (GPA) on a 4.0 scale or, if required by the teacher education program at the institution attended, a higher cumulative GPA.

(m) TSAC: Tennessee Student Assistance Corporation.

(2) To be eligible for an award all undergraduate students must attend a Tennessee college or university on a full-time basis as determined by the institution's written policies, excluding periods of internship and/or student teaching. During such periods, undergraduate students must be enrolled at least half-time, but may be enrolled less than full-time if mandated by the written policies of the educational institution. Post-baccalaureate recipients must attend a Tennessee college or university on at least a half-time basis as determined by the institution's written policies.

(3) Funds received from this program are considered financial assistance for purposes of determining student assistance eligibility under programs authorized by Title IV of the Higher Education Act of 1965, as amended.

(4) All such loans shall be evidenced by notes payable to TSAC.

(5) Any applications received or approved shall be subject to the availability of funds.

(6) Applications must be submitted on TSAC-approved forms by April 15, which immediately precedes the academic year for which the student is applying. The April 15 cut-off date may be extended by the TSAC Associate Executive Director for Grant and Scholarship Programs should it be determined necessary for the purpose of utilizing all available funds.

Rule 1640-01-17-.02, continued

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Amendment filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.03 ELIGIBILITY.

(1) The successful applicant must meet all of the following criteria:

(a) Be a citizen of the United States.

(b) Be a resident of Tennessee as defined by regulations promulgated by the Tennessee Board of Regents.

(c) Be admitted to or enrolled in a State-approved teacher education program at an accredited institution of higher education in Tennessee.

(d) Not be a licensed teacher, and not be employed, or previously employed, in a teaching position.

(e) Submit to TSAC a signed Promissory Note to teach full-time in a Tennessee public prekindergarten, kindergarten, elementary, or secondary school one (1) year for each year an award is received, or repay the loan should they fail to fulfill the teaching requirements.

(f) Submit to TSAC a letter of recommendation attesting to the student's commitment to teaching from an official of the teacher education program to which the student has been admitted.

(g) Not accept any financial aid that carries with it a conflicting service obligation. For the purposes of this program, participation in the Minority Teaching Fellows Program shall be considered as accepting aid that carries a conflicting service obligation.

(h) Submit a completed TSAC-approved application to TSAC by the established deadline.

(i) Submit to TSAC copies of all official college transcripts and the most recent test scores.

(j) Agree to inform TSAC in writing when any change occurs in name, address, or school enrollment, and provide supporting documentation. After obtaining teacher licensure, the recipient shall continue to notify TSAC of any change in name or address, and when he or she has obtained a teaching position, changed teaching assignments, or terminated teaching service.

(k) Not owe a refund or repayment on any grant, and is not in default on any loan, received at any postsecondary institution, under the provisions of Title IV of the Higher Education Act of 1965, as amended.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.04 METHOD OF SELECTION.

(1) Each year that funds are available, preliminary ratings of applications will be made by the TSAC staff based upon criteria and rankings established by the Selection Committee, composed of representatives of the State Board of Education, the TDOE, THEC, a member of the Tennessee Association of Student Financial Aid Administrators (TASFAA) from a postsecondary institution, and the Executive Director of TSAC or his or her designee. The Selection Committee will then review the top rated candidates to determine the final selections.

(2) The following priority groups have been established for this program:

(a) First priority shall be given to eligible renewal applicants who have maintained a cumulative GPA of at least 2.75 on a 4.0 scale, or higher if required by the teacher education program at the student's institution of higher education.

(b) Second priority shall be given to eligible non-teachers holding a bachelor's degree or higher who pledge to become teachers and who have at least a 2.75 cumulative GPA on a 4.0 scale for the highest degree attained, or a cumulative GPA of at least 2.75 on a 4.0 scale for graduate level studies, provided they have completed at least twelve (12) semester hours or the equivalent at the graduate level. A higher GPA may be required if mandated by the teacher education program at the student's institution of higher education.

(c) Third priority shall be given to eligible college juniors and seniors who possess a college cumulative GPA of at least 2.75, or higher if required by the teacher education program at the student's institution of higher education.

(3) Until all qualified applicants from the higher priority group(s) who have submitted their applications by the deadline have been offered the award, no applicants from a lower group may be considered for selection.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.05 LOAN AMOUNT AND TERMS.

(1) All loans shall be evidenced by promissory notes payable to TSAC. The maximum award available to any student shall be established by the Board of Directors of TSAC. If the recipient receives other educational assistance for the same period(s), the total assistance including this award is limited to the recipient's cost of attendance, as determined by the institution's financial aid office.

(a) For less than full-time study (twelve (12) semester hours), for undergraduate students in their final semester the amount of the award for one (1) academic year shall be determined based upon the following per term class load:

1. 6-8 credit hours - 50% of the academic year amount.

2. 9-11 credit hours - 75% of the academic year amount.

(b) For graduate students attending less than full-time, as determined by the institution, the amount of the award for one (1) academic year shall be determined based upon the following per term class load:

1. half-time – 50% of the academic year amount.

2. greater than half-time, but less than full-time – 75% of the academic year amount.

(2) Funds will be sent by Automated Clearing House (ACH) to the institution's financial aid office or business office in the recipient's name and shall be disbursed on a semester pro-rata basis. The institution will be directed to deliver the funds to the recipient. Prior to disbursing the funds to the student, the institution shall ensure that the recipient is enrolled in a teacher education program for the number of hours for which the funds are being issued for the appropriate academic term, and is making satisfactory progress in accordance with the Act. If the recipient receives other educational assistance for the same period, the total assistance including this award is limited to the recipient's cost of attendance, as determined by the institution's financial aid office.

(3) The awards may be transferred from one eligible institution of higher education to another provided that a TSAC-approved transfer form is submitted to TSAC.

(4) Cancellation

(a) For each year of full-time teaching service at an eligible school, as defined in these regulations, the recipient shall receive cancellation credit of one (1) academic year's award (the equivalent of two (2) semesters) toward repayment of the loan. If a recipient teaches in an eligible school that is high priority or on warning status as designated by the Tennessee Department of Education or the State Board of Education, the recipient's obligation will be canceled at a rate of one and one third (1 1/3) of the total annual award.

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

(c) A grace period of one (1) year will be granted to allow the recipient the opportunity to secure employment to begin cancellation credit. When a recipient has obtained a full-time teaching position at an eligible school, some or all of the grace period may be waived at the recipient's written request.

(d) Recipients in teaching positions that qualify them for cancellation credit must notify TSAC of that teaching status. Individuals whom TSAC has determined to be in a full-time teaching position at an eligible school shall be granted a postponement on repayment to allow them the opportunity to complete a full year of teaching. At the end of such period, cancellation credit will be applied upon receipt of the verification of such service.

(e) The debt shall be canceled due to the death of the recipient upon documentation deemed acceptable by TSAC.

(f) If a recipient is determined to be totally and permanently disabled under the standards established by T.C.A., Title 8, Chapter 36, Part 5, for determining disability for members of the Tennessee Consolidated Retirement System, the outstanding debt shall be canceled. A recipient is not considered totally and permanently disabled on the basis of a condition that existed prior to his or her application unless the recipient's condition has substantially deteriorated since he or she submitted the application. If at any time subsequent to an initial determination of disability the recipient's condition

improves to the point where a total and permanent disability no longer exists, TSAC may reinstate any outstanding debt previously canceled.

(5) Repayment

~~(a) The loan must be repaid should the recipient choose not to honor the terms and conditions of the loan agreement. Repayment will include the full amount of the loan funds received plus interest accrued from the date of each disbursement of the award. The interest accrued is determined by an interest rate of nine percent (9%) per annum. Repayment may be in whole or in monthly installments of at least one hundred dollars ($100) over a period of not more than ten (10) years from the end of the grace period. Payments of less than the amount required to amortize the loan within ten (10) years may be made only if the recipient documents to TSAC's satisfaction his or her inability to make payments of that amount. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized.~~

(~~b~~a) Repayment for recipients who complete the plan of study shall begin ~~upon demand by TSAC, or~~ in the first month following the end of the grace period or upon demand by TSAC should TSAC determine that the recipient will not fulfill the service requirement. Interest shall begin to accrue ~~on the date of each disbursement of the award(s)~~September 1 after completion of the program.

The interest shall accrue at a rate of nine percent (9%) per annum. Repayment may be in whole or in monthly installments of at least one hundred dollars ($100) over a period of not more than ten (10) years from the end of the grace period. Payments of less than the amount required to amortize the loan within ten (10) years may be made only if the recipient documents to TSAC's satisfaction his or her inability to make payments of that amount. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized.

(~~c~~b) Repayment for recipients who fail to complete the funded plan of study shall begin upon demand by TSAC, or in the first month after TSAC has determined that the student is no longer enrolled in a teacher education program or other failure to comply with the terms of the agreement.

Repayment will include the full amount of the loan funds received plus interest accrued from the date TSAC has determined that the student is no longer enrolled in a teacher education program or other failure to comply with the terms of the agreement ~~of disbursement~~ and shall be based upon ~~the~~ an interest rate of nine percent (9%) per annum ~~interest rate from the date of each disbursement~~. Repayment may be made in whole or monthly installments over a period of not more than ten (10) years from the date of failure to complete the plan of study. All interest shall be based upon the unpaid balance of the loan. The accrued interest may be capitalized. If a borrower issues a check, draft, or warrant~~t or electronic funds transfer~~, which is subsequently returned to TSAC for reason of insufficient funds, a stop payment order by the issuer, or any other reason, the payment to which these funds was applied shall be reversed on the borrower's account and interest shall continue to accrue from the date of the last valid payment.

(~~d~~c) Repayment of principal and interest will be prorated for partial service cancellation to reflect each full academic year. Such repayment shall begin upon demand by TSAC, or in the first month following termination of the creditable teaching service. Repayment of the non-canceled portion of the loan may be made in whole or in monthly installments over the remaining months of the ten (10) year repayment period. All interest shall be based upon the unpaid balance of the loan. The accrued interest

may be capitalized. Minimum monthly payments of one hundred dollars ($100) will be required unless an exception as described in (5)(a) of this rule is granted.

(ed) If a recipient should re-enter teaching at an eligible school after commencing monetary repayment, the repayments already made cannot be returned to the recipient. However, any additional repayment balances that were not in arrears at the time of the reentry into teaching may be canceled by subsequent teaching service.

(6) Repayment of principal may be deferred, but interest shall accrue, during any period while the recipient is enrolled at least half-time at an accredited institution of higher learning. The recipient may also be eligible for deferment during any period he or she is enrolled part time in a State-approved teacher education program at a Tennessee institution of higher education, and is making satisfactory progress toward teacher licensure in accordance with the institution's written policy, or in other extenuating circumstances as determined by the Associate Executive Director for Grant and Scholarship Programs of TSAC. To be eligible for deferment the recipient must request a deferment in writing and complete a TSAC-approved deferment form on a semi-annual basis.

(7) Deferments must be verified on a semi-annual basis and supporting documentation shall be provided to TSAC if requested. A student may be granted a deferment based on one or more of the following reasons:

(a) Enrollment not seeking a teaching certificate: The student is still enrolled in an accredited institution but is no longer seeking a teaching licensure, and shall not exceed three (3) years.

(b) Enrollment seeking a teaching certificate: The student has not yet completed the requirements for a teaching licensure, is still enrolled at least half-time at an accredited postsecondary institution, is making satisfactory progress toward a teacher licensure, and shall not exceed four (4) years.

(c) Hardship: A period of time in which the recipient is unable to make payments due to financial, medical, or personal circumstances beyond the recipient's control, or other extenuating circumstances approved by the Associate Executive Director for Grant and Scholarship Programs. Such period of hardship shall not exceed two (2) years.

(d) Military duty: The student has been called into active duty and shall not exceed the time of deployment.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Amendment filed June 30, 2000; effective October 28, 2000. Amendment filed August 6, 2002; effective December 27, 2002. Amendments filed February 3, 2005; effective June 28, 2005. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.06 COLLECTIONS.

(1) Due diligence requirements shall consist of the following:

(a) Provide the recipient with a signed copy of the promissory note.

(b) Notify the recipient of the repayment requirements during the grace period.

(c) Notify the recipient of repayment requirements during an approved period of deferment.

(d) Attempt to contact the recipient on no less than three separate occasions during the two hundred and seventy (270) day period in which no payments are received, beginning with the thirtieth (30th) day of delinquency and subsequent contacts no less than ninety (90) days apart.

(2) TSAC's collection activity will begin when the recipient is no longer honoring the repayment obligation. TSAC will exercise due diligence to contact the student to resolve the delinquency.

(3) TSAC will consider a recipient to be delinquent if the recipient fails to make an installment payment within thirty (30) days of the due date. Upon delinquency, TSAC will attempt to contact the recipient to give notice of the delinquency, inform the recipient of the consequences of default, and encourage the recipient to make payments as provided under the promissory note.

(4) TSAC will consider a recipient to be in default if the recipient fails make a payment for a period of two hundred seventy (270) consecutive days.

(5) Once the recipient is in default, TSAC may take one or more of the following actions:

(a) Assign the defaulted loan(s) to a collection agency.

1. Collection costs may be added to the defaulted loan at a rate not to exceed twenty (20%) of the original principal balance. Payments on the combined principal, interest, and collection costs shall not exceed an amount determined to be reasonable and affordable.

(b) Report to credit bureaus the default status of each loan.

(c) Make the student ineligible for state student aid programs.

(d) Submit an order of suspension, denial, or revocation to the appropriate licensing board for any Tennessee-issued professional license held by the recipient.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.07 REPEALED.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212. Administrative History: Original rule filed February 7, 1996; effective June 28, 1996. Repeal of rule filed December 6, 2007; effective April 29, 2008.

1640-01-17-.08 APPEALS PROCEDURE.

(1) TSAC shall provide written notice to a student of an adverse decision relative to a student's application for scholarship or scholarship award. A student who disagrees with such decision and wants the decision reviewed must request a review of the decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the written notice provided by TSAC. Such request shall include a statement of the reason or reasons for the request for review and all information supporting the student's position regarding the decision.

(2) Review of the TSAC decision shall be made by the TSAC Associate Executive Director for Grant and Scholarship Programs, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received

by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(3) Review of the decision of the TSAC Associate Executive Director for Grant and Scholarship Programs shall be made by the TSAC Executive Director, who shall issue a written decision to the student. A student who disagrees with such decision and wants the decision reviewed must request a further review of that decision in writing. The student's request for review must be received by TSAC within ten (10) business days of the date of the decision. Such request shall include a statement of the reason or reasons for request for review and all relevant supporting information.

(4) Review of the decision of the TSAC Executive Director shall be made by the TSAC Appeals Committee, who shall issue a written decision to the student. The decision of the TSAC Appeals Committee is the final administrative remedy. There shall be no right to judicial review of a decision of the TSAC Appeals Committee.

Authority: *T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Repeal and new rule filed December 6, 2007, effective April 29, 2008. Repeal and new rule filed March 1, 2013; effective August 29, 2013.*

1640-01-17-.09 REPEALED.

Authority*: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-212.* ***Administrative History:*** *Original rule filed February 7, 1996; effective June 28, 1996. Repeal of rule filed December 6, 2007; effective April 29, 2008.*

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Haslam, by Mr. Mark Cate	X				
Dr. Richard Rhoda By Dr. Russ Deaton	X				
Dr. Claude Pressnell	X				
Mr. David H. Lillard, Jr., by Mr. Andy McArthur	X				
Comptroller Justin P. Wilson, by Mr. Joseph Woodson	X				
Commissioner Larry Martin, by Greg Turner	X				
Commissioner Kevin Huffman, by Mr. Morgan Branch	X				
Chancellor John Morgan by David Gregory	X				
Dr. Joe Dipietro, by Dr. Katie High				X	
Dr. Betty Sue McGarvey By Dr. Gary Weedman	X				
Dr. J. Gary Adcox				X	
Mr. Jeff Gerkin	X				
Ms. Keri McInnis	X				
Dr. LaSimba Gray	X				
Mr. Cody Noble				X	
Mr. Daniel Webb				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on 09/26/2013, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 10.10.13

Signature:

Name of Officer: Richard G. Rhoda

Title of Officer: Executive Director, Tennessee Student Assistance Corp.

CORSINA DICKSON-WILEY STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

My Commission Expires AUG. 23, 2016

Subscribed and sworn to before me on: 10-10-13

Notary Public Signature:

My commission expires on: 08-23-2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-6-13
Date

Department of State Use Only

Filed with the Department of State on: 12/27/13

Effective on: 5/31/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Student Assistance Corporation
DIVISION:	Higher Education
SUBJECT:	Tennessee STEP UP Scholarship Program
STATUTORY AUTHORITY:	Tennessee Code Annotate, Sections 49-4-204 and 49-4-943
EFFECTIVE DATES:	May 31, 2014 through June 30, 2014
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	These proposed rules implement the Tennessee STEP UP Program which provides scholarships to students with disabilities who have completed high school in accordance with the requirements of the student's Individualized Education Program (IEP) and go on to pursue postsecondary education by enrolling in a two-year individualized program at an eligible postsecondary institution. Upon promulgation of these rules, TSAC will effectuate the purposes of these statutes.

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 proposed rules, Chapter 1640-01-24, Tennessee STEP UP Scholarship, as new 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 thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published.

The Tennessee STEP UP Scholarship is a program designed to assist students with intellectual disabilities who have completed high school in accordance with the requirements of the student's Individualized Education Program (IEP) and enroll in a two-year individualized program at an eligible postsecondary institution that is recognized by the Postsecondary Educational Alliance and provides meaningful postsecondary activities, including academic, career development and exploration and independent living skills, on the postsecondary campus.

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 key postsecondary education institution personnel 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 Tennessee STEP UP Scholarship 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 four postsecondary institutions currently eligible for student enrollment in the Tennessee STEP UP Scholarship, Lipscomb University, University of Memphis, University of Tennessee, and Vanderbilt University, all employ fifty (50) or more full-time employees.

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

   There are no significant changes in 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 impact postsecondary institutions employing fifty (50) or fewer full-time employees.

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 Tennessee STEP UP Scholarship Chapter 1640-01-24, as proposed, shall have no projected impact on local governments.

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For Department of State Use Only

Sequence Number: 12-33-13
Rule ID(s): 5651
File Date: 12/27/13
Effective Date: 5/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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) 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**
1640-01-24	Tennessee STEP UP Scholarship
Rule Number	**Rule Title**
1640-01-24-.01	Introduction
1640-01-24-.02	Definitions
1640-01-24-.03	Scholarship Award Amount
1640-01-24-.04	Application Process
1640-01-24-.05	Eligibility
1640-01-24-.06	Termination of Award
1640-01-24-.07	Reduction of Award
1640-01-24-.08	Certification
1640-01-24-.09	Leave of Absence
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New Rules

Chapter 1640-01-24
Tennessee STEP UP Scholarship

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1640-01-24-.05	Eligibility	1640-01-24-.10	Appeals Procedure

1640-01-24-.01 Introduction.

These rules implement the Tennessee STEP UP Scholarship, Title 49, Chapter 4, Part 9 as amended by 2013 Tennessee Public Acts, Chapter 483 (the Act). The Act provides scholarships to students with documented intellectual disabilities to attend eligible postsecondary institutions.

Authority: T.C.A §§ 49-4-201, 49-4-204, and 49-4-943.

1640-01-24-.02 Definitions.

(1) Eligible Postsecondary Institution: A postsecondary institution located in Tennessee that offers an eligible postsecondary program.

(2) Eligible Postsecondary Program: The term is defined in T.C.A. § 49-4-943.

(3) FAFSA: Free Application for Federal Student Aid.

(4) TSAC: Tennessee Student Assistance Corporation.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-943.

1640-01-24-.03 Scholarship Award Amount.

Subject to the amounts appropriated by the General Assembly and any law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, the amount of a Tennessee STEP UP Scholarship shall be the same as the amount of a Tennessee HOPE Scholarship awarded under T.C.A. § 49-4-914(a) to students attending eligible four-year postsecondary institutions.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-914, and 49-4-943.

1640-01-24-.04 Application Process.

(1) Students must apply for the Tennessee STEP UP scholarship by:

(a) Submitting the Tennessee STEP UP scholarship application to TSAC during each year of enrollment in the eligible postsecondary program. Applications for the STEP UP Scholarship will be due no later than September 1 for fall enrollment, February 1 for spring enrollment, and May 1 for summer enrollment in determining awards for that academic year, and

(b) Submitting the FAFSA during each year of enrollment in the eligible postsecondary program. It shall be the responsibility of the student, parent(s), and/or legal guardian(s) to submit the FAFSA in a timely manner. The FAFSA shall be received by the U.S. Department of Education on or before September 1 for fall enrollment, February 1 for spring enrollment, and May 1 for summer enrollment in determining awards for that academic year.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-943.

1640-01-24-.05 Eligibility.

(1) To be eligible for a Tennessee STEP UP Scholarship a student shall meet the requirements of T.C.A. § 49-4-943(b).

(2) To continue to be eligible for a Tennessee STEP UP Scholarship, a student shall meet the requirements of T.C.A § 49-4-943(c).

Authority T.C.A. §§ 49-4-201, 49-4-204, and 49-4-943.

1640-01-24-.06 Termination of Award.

A student may receive the Tennessee STEP UP Scholarship until a terminating event as described in T.C.A. § 49-4-943(d) occurs.

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

1640-01-24-.07 Reduction of Award.

If the sum of all financial aid, including a Tennessee STEP UP scholarship, for which a student qualifies exceeds the institutionally defined total cost of education at the eligible postsecondary institution the scholarship recipient is attending, then the student's Tennessee STEP UP scholarship shall be reduced so that the financial aid actually received by the student does not exceed the institutionally defined cost of education.

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

1640-01-24-.08 Certification.

Each eligible postsecondary institution shall be responsible for certifying to TSAC that the student has met all eligibility requirements. Upon receiving such certification, TSAC will disburse the funds to the eligible postsecondary institution in equal amounts between the fall, spring, or summer terms provided the student does not receive the award for more than two (2) terms in the same academic year.

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

1640-01-24-.09 Leave of Absence.

(1) A student may be granted medical or personal leaves of absence from attendance at an eligible postsecondary institution and receive the Tennessee STEP UP Scholarship upon resumption of the student's attendance at an eligible postsecondary institution so long as all other applicable eligibility criteria are met. An eligible postsecondary institution may grant leaves of absence only for medical or personal reasons. Allowable medical or personal reasons shall include, but not be limited to, illness of the student, illness or death of an immediate family member, extreme financial hardship of the student or student's immediate

family, or other extraordinary circumstances beyond the student's control where continued 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 seek relief from the decision in accordance with these rules.

(2) A student who receives an approved medical or personal leave of absence may resume receiving the scholarship as described in T.C.A § 49-4-943(d)(2).

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-943.

1640-01-24-.10 Appeals Procedure.

(1) A student whose Tennessee STEP UP Scholarship has been terminated by the postsecondary institution may appeal to the TELS Award Appeals Panel for relief. A student seeking an appeal shall submit a written statement outlining the basis for the appeal as well as all pertinent information related to the appeal to TSAC within forty-five (45) calendar days from the date that the decision was delivered to the student by the postsecondary institution. A complete record of the Institutional Review Panel (IRP) ruling shall be provided to TSAC by the student, if applicable.

(2) An appeal shall be heard by the Appeals Panel no later than forty-five (45) calendar days after an appeal is properly filed with TSAC, and a decision shall be determined no later than fourteen (14) calendar days after ruling on an appeal. Such decision shall be reduced to writing and shall include a summary of the pertinent facts and issues and the panel's decision. The Appeals Panel shall provide a copy of the written decision to the appellant and the appellant's home institution as soon as practicable. The Appeals Panel is the final administrative appeal.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-924, and 49-4-943.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Haslam, by Mr. Mark Cate	X				
Dr. Richard Rhoda By Dr. Russ Deaton	X				
Dr. Claude Pressnell	X				
Mr. David H. Lillard, Jr., by Mr. Andy McArthur	X				
Comptroller Justin P. Wilson, by Mr. Joseph Woodson	X				
Commissioner Larry Martin, by Greg Turner	X				
Commissioner Kevin Huffman, by Mr. Morgan Branch	X				
Chancellor John Morgan by David Gregory	X				
Dr. Joe Dipietro, by Dr. Katie High				X	
Dr. Betty Sue McGarvey By Dr. Gary Weedman	X				
Dr. J. Gary Adcox				X	
Mr. Jeff Gerkin	X				
Ms. Keri McInnis	X				
Dr. LaSimba Gray	X				
Mr. Cody Noble				X	
Mr. Daniel Webb				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on 09/26/2013, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 10.10.13

Signature: [signature]

Name of Officer: Richard G. Rhoda

Title of Officer: Executive Director, Tennessee Student Assistance Corp.

CORSINA DICKSON-WILEY STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

My Commission Expires AUG. 23, 2016

Subscribed and sworn to before me on: 10-10-2013

Notary Public Signature: [signature]

My commission expires on: 08-23-2016

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.

Robert E. Cooper, Jr. [signature]
Robert E. Cooper, Jr.
Attorney General and Reporter

12-13-13
Date

Department of State Use Only

Filed with the Department of State on: 12/27/13

Effective on: 5/31/14

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Department of Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	Enrollee Cost Sharing, TennCare Standard
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 71-5-105 and 71-5-109
EFFECTIVE DATES:	March 17, 2014 through June 30, 2014
FISCAL IMPACT:	Decrease state annual expenditures by $2,112,300
STAFF RULE ABSTRACT:	The rules replace emergency rules that implemented a $1.50 copay for generic prescription drugs obtained by TennCare enrollees who have a $3.00 copay for brand name drugs.

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.

Copy of response to comment included with filing.

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)

The rules are not anticipated to have an effect on 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 rules are not anticipated to have an impact on local governments.

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For Department of State Use Only

Sequence Number: 12-17-13
Rule ID(s): 5634
File Date: 12/17/13
Effective Date: 3/17/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

_X_ Amendments
___ 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**
1200-13-14	TennCare Standard
Rule Number	**Rule Title**
1200-13-14-.05	Enrollee Cost Sharing

1200-13-14-.05 ENROLLEE COST SHARING.

(2) Copays.

~~(c) Pharmacy copays.~~

~~1. There is no pharmacy copay for covered generic prescription drugs.~~

~~2. The following TennCare Standard enrollees have a pharmacy copay of $3.00 per covered brand name prescription:~~

~~(i) TennCare Standard children with family incomes that are 100% of poverty or greater.~~

~~(ii) Enrollees in the Standard Spend Down program.~~

~~(iii) Enrollees in the CHOICES At-Risk Demonstration Group.~~

(c) Pharmacy copays. The following TennCare Standard enrollees have pharmacy copays of $3.00 per covered brand name prescription and $1.50 per covered generic prescription:

1. TennCare Standard children with family incomes that are 100% of poverty or greater.

2. Enrollees in the Standard Spend Down program.

3. Enrollees in the CHOICES At-Risk Demonstration Group.

(d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children.

Benefit	Copay if income is 0%-99% of poverty	Copay if income is 100%-199% of poverty	Copay if income is 200% of poverty or greater
Hospital emergency room use for non-emergency services (waived if admitted)	$0	$10	$50
Primary care provider services other than preventive care	$0	$5	$15
Community Mental Health Agency services other than preventive care	$0	$5	$15
Physician specialists and dentists	$0	$5	$20
Prescription or refill	$0	$3 for covered branded prescriptions~~; $0 for generic prescriptions~~ and $1.50 for covered generic prescriptions	$3 for covered branded prescriptions~~; $0 for generic prescriptions~~ and $1.50 for covered generic prescriptions
Inpatient hospital admission	$0	$5	$100

GW10213346R

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/04/2013 (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: 09/11/13

Rulemaking Hearing(s) Conducted on: (add more dates). 11/25/13

Date: 12/4/2013

Signature:

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 12-4-13

Notary Public Signature:

My commission expires on: AUG 23 2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-16-13
Date

Department of State Use Only

Filed with the Department of State on: 12/17/13

Effective on: 3/17/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Department of Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	Enrollee Cost Sharing, TennCare Medicaid
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 71-5-105 and 71-5-109
EFFECTIVE DATES:	March 17, 2014 through June 30, 2014
FISCAL IMPACT:	Decrease state annual expenditures by $2,112,300
STAFF RULE ABSTRACT:	The rule replaces an emergency rule that implemented a $1.50 copay for generic prescription drugs obtained by TennCare enrollees who have a $3.00 copay for brand name drugs.

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.

Copy of response to comment included with filing.

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)

The rule is not anticipated to have an effect on 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 rule is not anticipated to have an impact on local governments.

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Sequence Number: 12-18-13
Rule ID(s): 51635
File Date: 12/17/13
Effective Date: 3/17/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

X Amendments
___ 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**
1200-13-13	TennCare Medicaid
Rule Number	**Rule Title**
1200-13-13-.05	Enrollee Cost Sharing

1200-13-13-.05 ENROLLEE COST SHARING.

~~(1) TennCare Medicaid enrollees do not have cost sharing responsibilities for TennCare coverage and covered services, except that effective August 1, 2005, TennCare Medicaid adults (age 21 and older) who receive pharmacy services will have nominal copays for these services. The copays will be $3.00 (three dollars) for each branded drug and $0 (zero dollars) for each covered generic drug. Generic drugs which exceed the limit of five (5) prescriptions or refills per enrollee per month are not covered. Family planning drugs and emergency services are exempt from copay. Enrollees may not be denied a service for inability to pay a copay. There is no Out-of-Pocket Maximum on copays.~~

(1) TennCare Medicaid enrollees do not have cost sharing responsibilities for TennCare coverage and covered services, except TennCare Medicaid adults (age 21 and older) who receive pharmacy services have nominal copays for the pharmacy services. The copays are $3.00 (three dollars) for each covered branded drug and $1.50 (one dollar and fifty cents) for each covered generic drug. Branded drugs which exceed the limit of two (2) prescriptions or refills per enrollee per month are not covered. Generic drugs and covered branded drugs which exceed the limit of five (5) prescriptions or refills per enrollee per month are not covered. Family planning drugs and emergency services are exempt from copay. Enrollees may not be denied a service for inability to pay a copay. There is no Out-of-Pocket Maximum on copays.

GW10113346R

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/04/2013 (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: 09/11/13

Rulemaking Hearing(s) Conducted on: (add more dates). 11/25/13

Date: 12/4/2013

Signature:

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 12-4-13

Notary Public Signature: Cheryl D Kline

My commission expires on: AUG 23 2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-16-13
Date

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Filed with the Department of State on: 12/17/13

Effective on: 3/17/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Department of Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	Exclusion of certain benefits for TennCare Standard recipients
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 71-5-105 and 71-5-109
EFFECTIVE DATES:	March 17, 2014 through June 30, 2014
FISCAL IMPACT:	Decrease state expenditures by $4,241,300
STAFF RULE ABSTRACT:	The rules replace emergency rules that amended the department's rules governing the TennCare Standard program to exclude the following services from coverage: injections for the treatment of pain, transcutaneous electrical nerve stimulation for the treatment of chronic lower back pain, and more than 12 urine drug screens during a calendar year.

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 on these 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.

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to have an effect on 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 rules are not anticipated to have an impact on local governments.

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Sequence Number: 12-19-13
Rule ID(s): 5636
File Date: 12/17/13
Effective Date: 3/17/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

X Amendments
___ 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**
1200-13-14	TennCare Standard
Rule Number	**Rule Title**
1200-13-14-.04	Covered Services
1200-13-14-.10	Exclusions

(Rule 1200-13-14-.04, continued)

(a) TennCare MCCs shall cover the following services and benefits subject to any applicable limitations described herein in this Chapter. TennCare MCCs shall cover TennCare CHOICES services and benefits in accordance with Rule 1200-13-01-.05.

1. Any and all medically necessary services may require prior authorization or approval by the MCC, except where prohibited by law.

2. An MCC shall not refuse to pay for a service solely because of a lack of prior authorization as follows:

(i) Preventive, diagnostic, and treatment services for persons under age 21. MCCs shall provide all medically necessary, covered services regardless of whether the need for such services was identified by a provider whose services had received prior authorization from the MCC or by an in-network provider.

(ii) Emergency services. MCCs shall not require prior authorization or approval for covered services rendered in the event of an emergency, as defined in these rules. Such emergency services may be reviewed on the basis of medical necessity or other MCC administrator requirements, but cannot be denied solely because the provider did not obtain prior authorization or approval from the enrollee's MCC.

3. MCCs shall not impose any service limitations that are more restrictive than those described herein; however, this shall not limit the MCC's ability to establish procedures for the determination of medical necessity.

4. Services for which there is no federal financial participation (FFP) are not covered.

5. Non-covered services are non-covered regardless of medical necessity.

(b) The following physical health and mental health benefits are covered under the TennCare managed care program. Benefits offered under the TennCare CHOICES program are also covered under the TennCare managed care program, as described in Rule 1200-13-01-.05. There are some exclusions to the benefits listed below. The exclusions are listed in this rule and in Rule 1200-13-14-.10.

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
1. Ambulance Sevices.	See "Emergency Air and Ground Transportation" and "Non-Emergency Ambulance Transportation."	See "Emergency Air and Ground Transportation" and "Non-Emergency Ambulance Transportation."
2. Bariatric Surgery, defined as surgery to induce weight loss.	Covered as medically necessary.	Covered as medically necessary.
3. Chiropractic Services [defined at 42 CFR §440.60(b)].	Covered as medically necessary.	Not covered.
4. Community Health Services, [defined at 42 CFR §440.20(b) and (c) and 42 CFR §440.90].	Covered as medically necessary.	Covered as medically necessary.
5. Dental Services	Preventive, diagnostic, and treat-	Not covered, except for orthodontic

(I) Fourteen (14) pills per month for sedative hypnotic formulations in pill form such as Ambien and Lunesta;

(II) One hundred forty milliliters (140 ml) per month of chloral hydrate; or

(III) One (1) bottle every sixty (60) days of Zolpimist.

21. Purchase, repair, or replacement of materials or equipment when the reason for the purchase, repair, or replacement is the result of enrollee abuse

22. Purchase, repair, or replacement of materials or equipment that has been stolen or destroyed except when the following documentation is provided:

(i) Explanation of continuing medical necessity for the item, and

(ii) Explanation that the item was stolen or destroyed, and

(iii) Copy of police, fire department, or insurance report if applicable

23. Radial keratotomy

24. Reimbursement to a provider or enrollee for the replacement of a rented durable medical equipment (DME) item that is stolen or destroyed

25. Repair of DME items not covered by TennCare

26. Repair of DME items covered under the provider's or manufacturer's warranty

27. Repair of a rented DME item

28. Speech, language, and hearing services to address speech problems caused by mental, psychoneurotic, or personality disorders

29. Standing tables

30. Vision services for persons 21 years of age and older that are not needed to treat a systemic disease process including, but not limited to:

(i) Eyeglasses, sunglasses, and/or contact lenses for persons aged 21 and older, including eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, sunglasses, and/or contact lenses; procedures performed to determine the refractive state of the eye(s); one pair of cataract glasses or lenses is covered for adults following cataract surgery

(ii) LASIK

(iii) Orthoptics

(iv) Vision perception training

(v) Vision therapy

(b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

(ix) Reversal of sterilization procedures

(x) Any other service or procedure intended to create a pregnancy

(xi) Testing and/or treatment, including therapy, supplies, and counseling, for frigidity or impotence

##. Injections for the treatment of pain susch as:

(i) Facet/medial branch injections for therapeutic purposes

(ii) Medial branch injections for diagnostic purposes in excess of four (4) injections in a calendar year

(iii) Trigger point injections in excess of four (4) injections per muscle trigger point during any period of six (6) consecutive months

(iv) Epidural steroid injections in excess of three (3) injections during any period of six (6) consecutive months, except epidural injections associated with childbirth

41. Lamps such as:

(i) Heating lamps

(ii) Lava lamps

(iii) Sunlamps

(iv) Ultraviolet lamps

42. Lifts as follows:

(i) Automobile van lifts

(ii) Electric powered recliner, elevating seats, and lift chairs

(iii) Elevators

(iv) Overhead or ceiling lifts, ceiling track system lifts, or wall mounted lifts when installation would require significant structural modification and/or renovation to the dwelling (e.g., moving walls, enlarging passageways, strengthening ceilings and supports). The request for prior authorization must include a specific breakdown of equipment and installation costs, specifying all required structural modifications (however minor) and the cost associated thereto.

(v) Stairway lifts, stair glides, and platform lifts, including but not limited to Wheel-O-Vators

43. Ligation of mammary arteries, unilateral or bilateral

44. Megavitamin therapy

72. Sexual dysfunction or inadequacy services and medicine, including drugs for erectile dysfunctions and penile implant devices

73. Sitter services.

74. Speech devices as follows:

    (i) Phone mirror handivoice

    (ii) Speech software

    (iii) Speech teaching machines

75. Sphygmomanometers (blood pressure cuffs)

76. Stethoscopes

77. Supports

TENS (transcutaneous electrical nerve stimulation) units for the treatment of chronic lower back pain

    (i) Cervical pillows

    (ii) Orthotrac pneumatic vests

78. Thermograms

79. Thermography

80. Time involved in completing necessary forms, claims, or reports

81. Tinnitus maskers

82. Toy equipment such as:

    Flash switches (for toys)

83. Transportation costs as follows:

    (i) Transportation to a provider who is outside the geographical access standards that the MCC is required to meet when a network provider is available within such geographical access standards or, in the case of Medicare beneficiaries, transportation to Medicare providers who are outside the geographical access standards of the TennCare program when there are Medicare providers available within those standards

    (ii) Mileage reimbursement, car rental fees, or other reimbursement for use of a private vehicle unless prior authorized by the MCC in lieu of contracted transportation services

    (iii) Transportation back to Tennessee from vacation or other travel out-of-state in order to access non-emergency covered services (unless authorized by the MCC)

(Rule 1200-13-14-.10, continued)

(iv) Any non-emergency out-of-state transportation, including airfare, that has not been prior authorized by the MCC. This includes the costs of transportation to obtain out-of-state care that has been authorized by the MCC. Out-of-state transportation must be prior authorized independently of out-of-state care.

84. Transsexual surgery

Urine drug screens in excess of twelve (12) during a calendar year

85. Vagus nerve stimulators, except after conventional therapy has failed in treating partial onset of seizures.

86. Weight loss or weight gain and physical fitness programs including, but not limited to:

(i) Dietary programs of weight loss programs, including, but not limited to, Optifast, Nutrisystem, and other similar programs or exercise programs. Food supplements will not be authorized for use in weight loss programs or for weight gain.

(ii) Health clubs, membership fees (e.g., YMCA)

(iii) Marathons, activity and entry fees

(iv) Swimming pools

87. Wheelchairs as follows:

(i) Wheelchairs defined by CMS as power operated vehicles (POVs), namely, scooters and devices with three (3) or four (4) wheels that have tiller steering and limited seat modification capabilities (i.e., provide little or no back support). Powered wheelchairs, meaning four (4) wheeled, battery operated vehicles that provide back support and that are steered by an electronic device or joystick that controls direction and turning, are covered as medically necessary.

(ii) Standing wheelchairs

(iii) Stair-climbing wheelchairs

(iv) Recreational wheelchairs

88. Whirlpools and whirlpool equipment such as:

(i) Action bath hydro massage

(ii) Aero massage

(iii) Aqua whirl

(iv) Aquasage pump, or similar devices

(v) Hand-D-Jets, or similar devices

(vi) Jacuzzis, or similar devices

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/04/2013 (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: 09/20/13

Rulemaking Hearing(s) Conducted on: (add more dates). 11/25/13

Date: 12/4/2013

Signature:

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 12-4-13

Notary Public Signature: Cheryl D Kline

My commission expires on: AUG 28 2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-16-13
Date

Department of State Use Only

Filed with the Department of State on: 12/17/13

Effective on: 3/17/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Department of Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	Exclusion of certain benefits for TennCare Medicaid recipients
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 71-5-105 and 71-5-109
EFFECTIVE DATES:	March 17, 2014 through June 30, 2014
FISCAL IMPACT:	Decrease state expenditures by $4,241,300
STAFF RULE ABSTRACT:	The rules replace emergency rules that amended the department's rules governing the TennCare Medicaid program to exclude the following services from coverage: injections for the treatment of pain, transcutaneous electrical nerve stimulation for the treatment of chronic lower back pain, and more than 12 urine drug screens during a calendar year.

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 on these 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.

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to have an effect on 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 rules are not anticipated to have an impact on local governments.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 12-20-13
Rule ID(s): 5637
File Date: 12/17/13
Effective Date: 3/17/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):
X Amendments
___ 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**
1200-13-13	TennCare Medicaid
Rule Number	**Rule Title**
1200-13-13-.04	Covered Services
1200-13-13-.10	Exclusions

(Rule 1200-13-13-.03, continued)

rule filed April 29, 2005; effective through October 11, 2005. Amendments filed July 28, 2005; effective October 11, 2005. Public necessity rule filed December 29, 2005; effective through June 12, 2006. Public necessity rule filed December 29, 2005, expired June 12, 2006. On June 13, 2006, affected rules reverted to status on December 28, 2005. Amendment filed March 31, 2006; effective June 14, 2006. Amendment filed August 14, 2006; effective October 28, 2006. Public necessity rule filed February 8, 2008; effective through July 22, 2008. Repeal and new rule filed May 7, 2008; effective July 21, 2008. Amendments filed September 25, 2009; effective December 24, 2009. Amendment filed November 30, 2009; effective February 28, 2010. Emergency rule filed March 1, 2010; effective through August 28, 2010. Amendments filed May 27, 2010; effective August 25, 2010. Amendments filed October 26, 2010; effective January 24, 2011.

1200-13-13-.04 COVERED SERVICES.

(1) Benefits covered under the managed care program

(a) TennCare MCCs shall cover the following services and benefits subject to any applicable limitations described ~~herein~~ in this Chapter. TennCare MCCs shall cover TennCare CHOICES services and benefits in accordance with Rule 1200-13-01-.05.

1 Any and all medically necessary services may require prior authorization or approval by the MCC, except where prohibited by law.

2. An MCC shall not refuse to pay for a service solely because of a lack of prior authorization as follows:

(i) EPSDT services. MCCs shall provide all medically necessary, covered services regardless of whether the need for such services was identified by a provider whose services had received prior authorization from the MCC or by an in-network provider.

(ii) Emergency services. MCCs shall not require prior authorization or approval for covered services rendered in the event of an emergency, as defined in these rules. Such emergency services may be reviewed on the basis of medical necessity or other MCC administrator requirements, but cannot be denied solely because the provider did not obtain prior authorization or approval from the enrollee's MCC.

3. MCCs shall not impose any service limitations that are more restrictive than those described herein; however, this shall not limit the MCC's ability to establish procedures for the determination of medical necessity.

4. Services for which there is no federal financial participation (FFP) are not covered.

5. Non-covered services are non-covered regardless of medical necessity.

(Rule 1200-13-13-.10, continued)

state of the eye(s); one pair of cataract glasses or lenses is covered for adults following cataract surgery

(ii) LASIK

(iii) Orthoptics

(iv) Vision perception training

(v) Vision therapy

(b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

1. Alcoholic beverages

2. Animal therapy including, but not limited to:

(i) Dolphin therapy

(ii) Equine therapy

(iii) Hippo therapy

(iv) Pet therapy

3. Art therapy

4. Autopsy

5. Bathtub equipment and supplies as follows:

(i) Paraffin baths

(ii) Sauna baths

6. Beds and bedding equipment as follows:

(i) Adjust-a-Beds, lounge beds, or similar devices

(ii) Waterbeds

7. Bioenergetic therapy

8. Body adornment and enhancement services including, but not limited to:

(i) Body piercing

(Rule 1200-13-13-.10, continued)

(iii) Safe automobile transport is not otherwise possible.

40. Infertility or impotence services including, but not limited to:

(i) Artificial insemination services

(ii) Purchase of donor sperm and any charges for the storage of sperm

(iii) Purchase of donor eggs, and any charges associated with care of the donor required for donor egg retrievals or transfers of gestational carriers

(iv) Cryopreservation and storage of cryopreserved embryos

(v) Services associated with a gestational carrier program (surrogate parenting) for the recipient or the gestational carrier

(vi) Fertility drugs

(vii) Home ovulation prediction kits

(viii) Services for couples in which one of the partners has had a previous sterilization procedure, with or without reversal

(ix) Reversal of sterilization procedures

(x) Any other service or procedure intended to create a pregnancy

(xi) Testing and/or treatment, including therapy, supplies, and counseling, for frigidity or impotence

##. Injections for the treatment of pain such as:

(i) Facet/medial branch injections for therapeutic purposes

(ii) Medial branch injections for diagnostic purposes in excess of four (4) injections in a calendar year

(iii) Trigger point injections in excess of four (4) injections per muscle trigger point during any period of six (6) consecutive months

(iv) Epidural steroid injections in excess of three (3) injections during any period of six (6) consecutive months, except epidural injections associated with childbirth

41. Lamps such as:

(i) Heating lamps

(Rule 1200-13-13-.10, continued)

~~71~~72.Sex change or transformation surgery

72. Sexual dysfunction or inadequacy services and medicine, including drugs for erectile dysfunctions and penile implant devices

73. Sitter Services.

74. Speech devices as follows:

    (i) Phone mirror handivoice

    (ii) Speech software

    (iii) Speech teaching machines

75. Sphygmomanometers (blood pressure cuffs)

76. Stethoscopes

77. Supports

    (i) Cervical pillows

    (ii) Orthotrac pneumatic vests

##. TENS (transcutaneous electrical nerve stimulation) units for the treatment of chronic lower back pain

78. Thermograms

79. Thermography

80. Time involved in completing necessary forms, claims, or reports

81. Tinnitus maskers

82. Toy equipment such as: Flash switches (for toys)

83. Transportation costs as follows:

    (i) Transportation to a provider who is outside the geographical access standards that the MCC is required to meet when a network provider is available within such geographical access standards or, in the case of Medicare beneficiaries, transportation to Medicare providers who are outside the geographical access standards of the TennCare program when there are Medicare providers available within those standards

(Rule 1200-13-13-.10, continued)

(ii) Mileage reimbursement, car rental fees, or other reimbursement for use of a private vehicle unless prior authorized by the MCC in lieu of contracted transportation services

(iii) Transportation back to Tennessee from vacation or other travel out-of-state in order to access non-emergency covered services (unless authorized by the MCC)

(iv) Any non-emergency out-of-state transportation, including airfare, that has not been prior authorized by the MCC. This includes the costs of transportation to obtain out-of-state care that has been authorized by the MCC. Out-of-state transportation must be prior authorized independently of out-of-state care.

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Signature:

Name of Officer: Darin J. Gordon

Title of Officer: Director, Bureau of TennCare
Tennessee Department of Finance and Administration

CHERYL D. KLINE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: 12-4-13

Notary Public Signature: Cheryl D. Kline

My commission expires on: Aug 23 2016

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-16-13
Date

Department of State Use Only

Filed with the Department of State on: 12/17/13

Effective on: 3/17/14

Tre Hargett
Secretary of State

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