G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	State
DIVISION:	Elections
SUBJECT:	Tally Tape from Voting Machines
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 2-11-201(c)
EFFECTIVE DATES:	July 29, 2014 to January 25, 2015
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	This emergency rule amendment removes the requirement for Election Day poll officials to print a third tally tape from each voting machine.

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 amendment to this rule will not have a financial impact on local governments.

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Sequence Number: 07-25-14
Rule ID(s): 5777
File Date (effective date): 7/29/14
End Effective Date: 1/25/15

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 State
Division:	Division of Elections
Contact Person:	Mark Goins, Coordinator of Elections
Address:	312 Rosa L. Parks, 7th Floor Snodgrass/TN Tower
Zip:	37243
Phone:	615-741-7956
Email:	Mark.Goins@tn.gov

Rule Type:
X Emergency Rule

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

Statement of Necessity:

T.C.A. § 4-5-208 provides that an agency may adopt emergency rules if an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public.

On August 7, 2014, Tennessee will conduct a federal primary, state primary, state general election, county general election, and in some counties, municipal general elections. In the largest county in Tennessee, voters will have as many as eighty-three (83) offices on the ballot to review. Even in the smallest county in Tennessee, voters will have as many as forty-five (45) offices on the ballot. In each of these counties and in every county in Tennessee, voters will be presented with one of the largest ballots they have seen to date. This extensive ballot will not only impact the length of time involved for voters to cast their ballot, but it will also impact the length of time to print the tally tapes from each voting machine used in the election, thereby creating a longer work day for our Election Day poll officials.

After the polls have closed, the election officials at each polling place must close the voting machines and print a voting machine tally tape which shows the total number of votes cast for each office and question, the total number of votes cast for each candidate, including write-in candidates, and for each position on a question. Pursuant to T.C.A. § 2-7-132(a), election officials must complete a duplicate tally sheet which provides the same information. Thus, this statute requires election officials to print a second voting machine tape which provides the duplicate information from the first printed tape. Additionally, Promulgated Rule 1360-02-13-.22, requires a third tally tape to be printed.

One of our smaller counties in Tennessee using the MicroVote voting system has reported that given the length of the ballot, the tally tape will be at least sixty inches (60") long, and that with tallying and printing, it will take at least twenty (20) minutes per machine to generate the three (3) voting machine tally tapes required by Rule 1360-02-13-.22. Normally, for this system, there is only one (1) printer available in each polling place and, therefore, in this county which has a polling place with six (6) voting machines, it can take up to two (2) hours after the polls have closed to tally and print the three (3) voting machine tally tapes for each machine in a polling

place. For larger counties, with larger ballots, the time to tally and print the three (3) voting machine tally tapes for each voting machine may take even longer.

T.C.A. § 2-3-201(a) requires polling places to be open for voting for a minimum of ten (10) continuous hours but no more than thirteen (13) hours. In addition to this minimum time to be open for voting, T.C.A. § 2-7-105(a) requires our election officials to meet at the polling place at least one-half (1/2) hour before the time for opening the polls for the election. Following, at a minimum a ten and a half (10 ½) hour day, our election officials must then perform the duties of closing the polling place, including the printing of the three (3) voting machine tally tapes. In several counties, election commissioners choose to be open for twelve (12) hours. For election officials who arrive one half (1/2) hour before polls open and have to remain another possible two (2) hours to print the tally tapes, at least fourteen and one half (14 ½) hours will be required of this poll official on this day.

Furthermore, because of the extensive length of the tally tape, more paper will be needed to print multiple tally tapes. The need for additional paper may impose the extra responsibility upon election officials to replace the paper needed to print three (3) tally tapes. This responsibility will require additional training and additional time for election officials who are already facing an overwhelming day.

With these facts, multiple counties have reported significant difficulty in obtaining qualified poll workers and other election officials to work on Election Day. Without a sufficient number of election officials to conduct the elections throughout the state, the ability to conduct fair, impartial and trustworthy elections will be compromised. Thus, in order to ensure that there are sufficient qualified election officials to work on Election Day so as to secure the purity of the ballot box, the Coordinator of Elections seeks to adopt emergency rules in order to eliminate the non-statutory requirement of printing the third (3rd) voting machine tally tape.

The proposed amendment to Promulgated Rule 1360-02-13-.22 will maintain the requirement that the election officials print two (2) tapes, including pre-opening zero (000) tapes, from each voting machine and a precinct total tape. The first tape to be brought to the central election commission office with all election supplies from that polling place and the second tape, which includes the same information as the first tape, from each machine, to be posted on the wall of the polling place. The Rule would continue to require that ample opportunity shall be given to any person present to obtain the results from the paper tapes posted on the wall of the polling place.

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**
1360-02-13	Electronic Voting Machines
Rule Number	**Rule Title**
1360-02-13-.22	Locking Machines Upon Close of Polls – Canvass and Proclamation of Votes

(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
Rule Number 1360-02-13-.22

Rule Number 1360-02-13-.22 is amended by removing the requirement to print a third (3rd) tally tape and shall read as follows:

1360—02—13—.22 LOCKING MACHINES UPON CLOSE OF POLLS—CANVASS AND PROCLAMATION OF VOTES. Upon close of the polls the judges shall, under provisions of T.C.A. § 2—7—130, lock the machines against voting and shall sign a certificate on the tally sheet that each machine has been locked against voting; the number of voters as shown on the public counters; and the number registered on the protective counter. The judges shall then, in the presence of watchers and others who are present, run the election results paper tape. ~~The judges shall give the first paper tape, including pre-opening zero (000) tape, and the second paper tape to the precinct registrars. The third paper tape, from each machine, shall be posted on the wall of the polling place. The first results tape, including pre-opening zero (000) tape, from each machine and a precinct total tape shall be attached to the original tally sheet, and the second paper tape from each machine and a precinct total tape shall be attached to the duplicate tally sheet by the precinct registrars.~~ The judges shall give the first paper tape, including pre-opening zero (000) tape, to the precinct registrars. The second paper tape, from each machine,

shall be posted on the wall of the polling place. The first results tape, including pre-opening zero (000) tape, from each machine and a precinct total tape shall be transported along with other election materials to the election commission office, or its designated location for receiving election results. Ample opportunity shall be given to any person present to obtain the results from the paper tapes posted on the wall of the polling place.

Authority: T.C.A. § 2—11—201(c).

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

Date: 28 July 14

Signature: Mark Goins

Name of Officer: Mark Goins

Title of Officer: Coordinator of Elections

JENNIFER A. COWHERD
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: July 28, 2014

Notary Public Signature: Jennifer A Cowherd

My commission expires on: 11-3-2015

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-29-14
Date

Department of State Use Only

Filed with the Department of State on: 7/29/14

Effective for: 180 *days

Effective through: 1/25/15

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RECEIVED
2014 JUL 29 PM 3:03
OFFICE OF SECRETARY OF STATE

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Finance and Administration
DIVISION:	Administration
SUBJECT:	Allocation of Certain Sales Tax Revenues for Economically Distressed Counties
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 67-6-104 (Public Chapter 985, Public Acts of 2014)
EFFECTIVE DATES:	July 22, 2014 to January 18, 2015
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	This emergency rule sets forth the process that economically distressed counties must follow to obtain certain sales tax revenue allocations under the program created by Public Chapter 985 of the Public Acts of 2014.

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 would assist local governments by allowing eligible local government entities to receive the benefits of Public Chapter 985 of 2014.

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Sequence Number: 07-20-14
Rule ID(s): 5746
File Date (effective date): 7/22/14
End Effective Date: 1/18/15

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:	Administration
Contact Person:	Trammel Hoehn
Address:	Office of the Commissioner of Finance and Administration, State Capitol, Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-7680
Email:	Trammel.Hoehn@tn.gov

Rule Type:
X Emergency Rule

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

Statement of Necessity:
T.C.A. Section 4-5-208(a)(5) authorizes emergency rules when an agency is required by an enactment of the General Assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures for the promulgation of permanent rules.

Public Chapter 985 of 2014 authorizes the Department of Finance and Administration to promulgate rules to effectuate the purposes of the statute. The statute requires that an application for certain projects under the rules be filed with the Commissioner of Finance and Administration by December 31, 2014. Requiring the Department to conduct the rulemaking hearing rule process presents a risk that applicants for these projects would not be able to timely file a complete and fully documented application by December 31 of this year. Therefore, emergency rules are required to meet this statutory deadline.

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**
0620-03-07	Allocation of Tax Revenues to Assist Economically Distressed Counties
Rule Number	**Rule Title**
0620-03-07-.01	Purpose, Scope and Authority
0620-03-07-.02	Application Process

Chapter 0620-03-07
Administrative Division
New Rules

Chapter 0620-03 Administrative Division is amended to add Chapter 0620-03-.07 Allocation of Tax Revenues to

Assist Economically distressed counties, so that, the new rule shall read:

Table of Contents

0620-03-07-.01 Purpose, Scope and Authority

0620-03-07-.02 Application Process.

0620-03-07-.01 Purpose, Scope and Authority.

(1) Public Chapter 985 of 2014 amended Title 67, Chapter 6 of T.C.A. to create a program for allocation of certain sales tax revenues to assist economically distressed counties. The Department of Finance and Administration (Department) is granted certain responsibilities under Public Chapter 985 (Act).

(2) The Department is authorized to promulgate rules and regulations regarding its responsibilities under the Act.

Authority: T.C.A. §§ 4-5-201 et seq.; 67-6-104.

0620-03-07-.02 Application Process.

(1) An eligible county, municipality, or industrial development corporation established by such eligible county or municipality seeking to receive the allocation provided by the Act must submit an application to the Department of Finance and Administration. The Department will consider an application only if the following conditions are met:

(a) The application must be on a form approved by the Department.

(b) The application must be accompanied by payment of the non-refundable application fee of ten thousand dollars ($10,000).

(c) The application must contain all information required by the form. The applicant must also submit any supplemental information requested by the Department after receipt of the application. The completed application and all requested supplemental information must be received within the time specifications of the Department's form to be considered.

(d) The applicant must indicate which information in the application materials it considers confidential under T.C.A. § 67-6-104(i). The applicant must separate this material from non-confidential materials and label the confidential materials as such. The Department may allow consultants to review confidential material submitted in the course of the application process, provided that the contract or memorandum of understanding requires the consultant to maintain the confidentiality of such materials.

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 67-6-104.

* 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 an emergency rule(s), lawfully promulgated and adopted.

Date: July 16, 2014

Signature: Larry B Martin

Name of Officer: Larry B. Martin

Title of Officer: Commissioner of F&A

Subscribed and sworn to before me on: July 16, 2014

Notary Public Signature: Janet C. McGaha

My commission expires on: My Commission Expires: August 29, 2015

JANET C. McGAHA STATE OF TENNESSEE NOTARY PUBLIC KNOX COUNTY

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.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

7-21-14
Date

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Filed with the Department of State on: 7/22/14

Effective for: 180 *days

Effective through: 1/18/15

** 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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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	University of Tennessee
DIVISION:	
SUBJECT:	Access to University Property
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 49-9-209(e)
EFFECTIVE DATES:	July 18, 2014 through January 14, 2015
FISCAL IMPACT:	Minimal to none
STAFF RULE ABSTRACT:	This rule provides that university property is dedicated to the advancement of the university's principal missions of teaching, research, and service. The law allows the university, like a private owner of property, to preserve the property under its control for the uses to which it is dedicated. The rule describes the categories of persons generally authorized to use university property.

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 University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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Sequence Number: 07-15-14
Rule ID(s): 5759-5760
File Date (effective date): 7/18/14
End Effective Date: 1/14/15

Emergency Rule Filing Form

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

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Assistant General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Rule Type:
x Emergency Rule

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

Statement of Necessity:
The need for this rule arises out of the decision of the United States Court of Appeals for the Sixth Circuit in *McGlone v. Cheek,* a lawsuit filed against The University of Tennessee, Knoxville. The suit challenged Chapter 1720-01-02 ("Access to University Property"). Pursuant to that rule, the University required that persons not affiliated with the University (members of the general public) obtain sponsorship to speak on campus. The plaintiff also sought a preliminary injunction to prevent the University from enforcing Chapter 1720-01-02. The University filed a motion to dismiss the suit, and the United States District Court for the Eastern District of Tennessee granted the University's motion and denied the plaintiff's motion for a preliminary injunction. The plaintiff appealed, and the Sixth Circuit reversed the District Court's judgment and remanded for further proceedings. The suit has been dismissed pursuant to a Consent Order and Judgment under which the University is permanently enjoined from enforcing Chapter 1720-01-02. Although the suit was filed against The University of Tennessee, Knoxville, the Court's Consent Order and Judgment affects all campuses and institutes in the University of Tennessee system and leaves the entire University without an enforceable policy in this area. The new rules will be promulgated in accordance with both the emergency rulemaking procedures and the ordinary rulemaking procedures of the Tennessee Uniform Administrative Procedures Act.

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**
1720-01-02	Access to University Property
Rule Number	**Rule Title**
1720-01-02-.01	Restrictions

Chapter Number	**Chapter Title**
1720-01-02	Use of University Property
Rule Number	**Rule Title**

1720-01-02-.01	Dedication of University Property
1720-01-02-.02	Authorized Users

RULES
OF
THE UNIVERSITY OF TENNESSEE
(ALL CAMPUSES)

~~**CHAPTER 1720-1-2**~~
~~**ACCESS TO UNIVERSITY PROPERTY**~~

~~**TABLE OF CONTENTS**~~

~~1720-1-2-.01 Intent~~ ~~1720-1-2-.02 Repealed~~

~~**1720-1-2-.01 RESTRICTIONS.** The University's campuses and facilities shall be restricted to students, faculty, staff, guests, and invitees except on such occasions when all or part of the campuses, buildings, stadia, and other facilities are open to the general public.~~

~~***Authority:*** *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64.* ***Administrative History:*** *Original rule filed September 15, 1976; effective October 15, 1976.*~~

~~**1720-1-2-.02 REPEALED.**~~

~~***Authority:*** *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64.* ***Administrative History:*** *Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986.*~~

CHAPTER 1720-01-02
USE OF UNIVERSITY PROPERTY

1720-01-02-.01 DEDICATION OF UNIVERSITY PROPERTY. The University of Tennessee dedicates its property to the advancement of the University's principal missions of teaching, research, and service.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-02-.02 AUTHORIZED USERS. The following persons or groups may use University property, subject to other University rules, policies, or procedures adopted by a University campus, center, or institute, and federal, state, and local laws:

(1) University students;

(2) University employees;

(3) Members of the Board of Trustees;

(4) Government officials;

(5) A person or entity invited by the University, including, but not limited to, a University contractor;

(6) A person who has been invited by a student, a student organization, or an employee in his/her personal capacity, to join the student, student organization, or employee in the use of University property (e.g., friends and family), but not including the use of University property for free expression activities;

(7) A person using University property for free expression activities pursuant to Chapter 1720-01-12 (Use of University Property for Free Expression Activities by Non-Affiliated Persons);

(8) Volunteers of the University, as defined by University policy;

(9) Prospective students visiting University property and persons accompanying prospective students;

(10) Alumni visiting University property and persons accompanying alumni;

(11) A person who has a right of access to University property under Tennessee Code Annotated § 8-50-1001 or any other statutory provisions permitting access to University property;

(12) Any person or entity engaged in one of the following uses of University property:

(a) The use of University property for the purpose of attending a University activity or event that is open to attendance by the members of the general public at a designated place and time (e.g., athletic contests, plays, lectures, concerts);

(b) The use of University-owned streets, or University-owned sidewalks bordering University-owned streets, as thoroughfares while traveling from one location to another location;

(c) The use of University property that is open to the general public (e.g., campus bookstore, library, museum);

(d) The use of University property consistent with the terms of a lease agreement with the University; or

(e) The use of University property for a purpose relating to obtaining medical treatment from the University.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-02-.03 USE OF UNIVERSITY PROPERTY FOR FREE EXPRESSION ACTIVITIES. Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities) governs the use of University property for free expression activities by persons who are not affiliated with the University. To the extent of any conflict between this Chapter and Chapter 1720-01-12, Chapter 1720-01-12 shall control.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda				x	
Charles C. Anderson, Jr.	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Robert J. Duncan			Non-voting		
J. Brian Ferguson	x				
John N. Foy	x				
Crawford Gallimore	x				
Dr. David Golden			Non-voting		
Vicky B. Gregg	x				
Monice Moore Hagler	x				
Raja J. Jubran	x				
Brad A. Lampley				x	
Bonnie E. Lynch	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Karl A. Schledwitz	x				
Don C. Stansberry, Jr.	x				

Betty Ann Tanner	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				
Dr. Thaddeus A. Wilson	x				

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

Date: 06/20/2014

Signature:

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel

LYNETTE RUSSELL STATE OF TENNESSEE NOTARY PUBLIC KNOX COUNTY

Subscribed and sworn to before me on: 6-20-14

Notary Public Signature: Lynette Russell

My commission expires on: 1-27-15

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-14-14
Date

Department of State Use Only

RECEIVED 2014 JUL 18 PM 1:12 OFFICE OF SECRETARY OF STATE

Filed with the Department of State on: 7/18/14

Effective for: 180 *days

Effective through: 1/14/15

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

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: Use of University Property by Non-Affiliated Persons for Free Expression Activities

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-9-209(e)

EFFECTIVE DATES: July 18, 2014 through January 14, 2015

FISCAL IMPACT: Minimal to none

STAFF RULE ABSTRACT: This new rule regulates free expression activities on University property by persons other than University students, employees, and volunteers. Because the University is an instrumentality of the state of Tennessee, the rule must conform to the requirements of the First Amendment to the United States Constitution.

Section .01 describes the basic purpose of the rule and explains the relation of the rule to other University rules. Section .01 also notes that this rule replaces the "Speaker Policy" adopted by the University's Board of Trustees on June 19, 1969, a copy of which is included in the meeting materials following the new rule. The Speaker Policy only addressed the subject of outside speakers invited by student organizations.

Section .02 sets forth definitions of key terms used in the rule. The rule uses common First Amendment terms like "traditional public forum," "designated public forum," "limited public forum," "nonpublic forum," and "free expression activities," and defines those terms consistently with First Amendment jurisprudence.

Section .03 sets forth the general rule that University property is not open for free expression activities for persons who are not students, employees, or volunteers. Courts have rejected the proposition that a university must make all of its property equally available to students and nonstudents alike, or that a university must grant free

access to all of its property. The University, no less than a private owner of property, has the legal right to preserve the property under its control for the use to which it is lawfully dedicated. Section .03 explains that University property, which consists primarily of its many campus grounds and facilities, is dedicated to the advancement of the University's principal missions of teaching, research, and service. The University's property is not open, either by tradition or by University policy, for the general public's free expression activities, in the sense that many public streets, sidewalks, parks, auditoriums, or meeting rooms are often available in society as public forums for expression. Section .03 also explains that any free expression activity permitted under the rule is subject to the time, place, and manner restrictions in Section .08.

Section .04 recognizes that the University makes available limited public forums for use by its students and faculty members for free expression activities. Section .04 provides that a person not affiliated with the University may be invited by a student organization or a faculty member to participate in those free expression activities (for example, as a speaker, panelist, commentator, or performing artist). In such instances, the invited participant is not a guest of *the University*, and the invitation is not extended by *the University*, but rather the invited participant is a guest of the student organization or faculty member. In deciding whom to invite or not invite, the student organization or faculty member is not exercising the governmental authority of the University to decide who is allowed to use the limited public forum. Rather, they are the users of the forum with the First Amendment freedom to decide whom to include in the free expression activities. An invitation extended to a non-affiliated person under Section .04 does not imply approval or endorsement by the University of the views expressed by the non-affiliated person.

Section .05 provides that a person not affiliated with the University may be invited by a University unit to participate in free expression activities in connection with an official activity of the unit (for example, a lecture, presentation, debate, panel, or symposium) if the head of a University unit determines that the person's participation in the activity would advance one or more of the University's principal missions of teaching, research, and service.

Section .06 allows a person not affiliated with the University to use certain streets and sidewalks owned by the University for free expression activities.

Section .07 allows a person not affiliated with the University to use University property for certain other free expression activities.

Section .08 establishes reasonable regulations of the time, place, and manner of free expression activities permitted under other sections of the rule. These regulations serve such purposes as preventing substantial disruption of the advancement of the University's missions; preventing the disruption of the use of University property by the University community; preventing the use of University property contrary to law or University policies; and protecting the health, safety, and welfare of persons in the University community. For example, a person permitted to use University property for free expression activities is not allowed to block pedestrian traffic; block an entrance to a building; violate the law; disrupt a University activity; or damage the property.

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 University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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Sequence Number: 07-16-14
Rule ID(s): 5761
File Date (effective date): 7/18/14
End Effective Date: 1/14/15

Emergency Rule Filing Form

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

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Assistant General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Rule Type:
x Emergency Rule

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

Statement of Necessity:

The need for this rule arises out of the decision of the United States Court of Appeals for the Sixth Circuit in *McGlone v. Cheek,* a lawsuit filed against The University of Tennessee, Knoxville. The suit challenged Chapter 1720-01-02 ("Access to University Property") and the University's "Speaker Policy." Pursuant to those policies, the University required that persons not affiliated with the University (members of the general public) obtain sponsorship to speak on campus. The plaintiff also sought a preliminary injunction to prevent the University from enforcing Chapter 1720-01-02 and the Speaker Policy. The University filed a motion to dismiss the suit, and the United States District Court for the Eastern District of Tennessee granted the University's motion and denied the plaintiff's motion for a preliminary injunction. The plaintiff appealed, and the Sixth Circuit reversed the District Court's judgment and remanded for further proceedings. The suit has been dismissed pursuant to a Consent Order and Judgment under which the University is permanently enjoined from enforcing Chapter 1720-01-02. Although the suit was filed against The University of Tennessee, Knoxville, the Court's Consent Order and Judgment affects all campuses and institutes in the University of Tennessee system and leaves the entire University without an enforceable policy in this area, which creates an immediate danger to the health, safety, and welfare of students and employees of the University. The new rules will be promulgated in accordance with both the emergency rulemaking procedures and the ordinary rulemaking procedures of the Tennessee Uniform Administrative Procedures Act.

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**
1720-01-12	Use of University Property by Non-Affiliated Persons for Free Expression Activities
Rule Number	**Rule Title**
1720-01-12-.01	Purpose and Application of This Chapter
1720-01-12-.02	Definitions
1720-01-12-.03	General Rules

1720-01-12-.04	Non-Affiliated Persons Invited to Participate in the Free Expression Activities of Student Organizations and Faculty Members Using Limited Public Forums
1720-01-12-.05	Non-Affiliated Persons Invited to Participate in Free Expression Activities in Connection with an Official Activity of a University Unit
1720-01-12-.06	University Streets and Sidewalks
1720-01-12-.07	Other Free Expression Activities
1720-01-12-.08	Time, Place and Manner Restrictions

The University of Tennessee (All Campuses)
Chapter 1720-01-12
Use of University Property by Non-Affiliated Persons for Free Expression Activities
New Rule

Chapter 1720-01-12 is added to Chapter 1720-01 All Campuses and shall read as follows:

Chapter 1720-01-12 Use of University Property by Non-Affiliated Persons for Free Expression Activities

1720-01-12-.01 Purpose and Application of This Chapter. The purpose of this Chapter is to provide a uniform basis on which the University of Tennessee will regulate the use of University property by non-affiliated persons for free expression activities through reasonable, viewpoint neutral regulations consistent with and in furtherance of the University's principal missions of teaching, research, and service. To the extent of any conflict between this Chapter and Chapter 1720-01-02 (Use of University Property), Chapter 1720-01-08 (Assembly Policy), or Chapter 1720-01-07 (Solicitation on University Property), this Chapter shall control. This Chapter supersedes and replaces the "Speaker Policy" adopted by the University of Tennessee Board of Trustees on June 19, 1969.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.02 Definitions.

(1) The term "academic freedom" means the academic freedom of a University faculty member described in the University of Tennessee Board of Trustees' Policies Governing Academic Freedom, Responsibility, and Tenure.

(2) The term "designated public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by members of the general public.

(3) The term "free expression activities" means expression and/or assemblies protected by the First Amendment, including, but not limited to, picketing, distributing printed materials, public speaking, demonstrations, rallies, vigils, parades, and marches.

(4) The term "limited public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by certain groups or opened by the University for the purpose of free expression activities that are dedicated solely to the discussion of certain subjects.

(5) The term "non-affiliated person" means any person or entity who is not a University unit, student, student organization, employee, or volunteer.

(6) The term "nonpublic forum" means property that is not a forum for free expression activities.

(7) The term "printed materials" means publications, handbills, posters, leaflets, petitions, fliers and all other types of written matter.

(8) The term "public speaking" means:

(a) orally and audibly expressing;

(b) a message, idea, opinion, concept, principle, or belief;

(c) to one or more other persons;

(d) in public; and

(e) in a manner other than through a private conversation.

(9) The term "student organization" means a student organization registered with the University in accordance with University rules.

(10) The term "traditional public forum" means property that by tradition or by government fiat is open to assembly and debate by members of the general public, such as city streets, sidewalks, and parks.

(11) The term "University" means the campuses, centers, and institutes of the University of Tennessee, and all their constituent parts, and the University of Tennessee system administration.

(12) The term "University unit" means any academic, administrative, or auxiliary department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

(13) The term "University property" means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.03 General Rules.

(1) The University's property is dedicated to the advancement of the University's principal missions of teaching, research, and service. The University's property is not a traditional public forum or a designated public forum and thus is not open for use by non-affiliated persons, either by tradition or by University policy, for free expression activities, except as otherwise expressly provided in this Chapter. Rather, with the exception of the streets and sidewalks described in Section .06, University property consists of a variety of limited public forums and nonpublic forums.

(2) Free expression activities permitted by this Chapter are subject to the time, place, and manner restrictions in Section .08.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.04 Non-Affiliated Persons Invited to Participate in the Free Expression Activities of Student Organizations and Faculty Members Using Limited Public Forums.

(1) The University has opened many of its outdoor spaces and indoor facilities as limited public forums for use by students and by faculty members exercising academic freedom. In accordance with well-established First Amendment law, the University does not regulate these free expression activities on the basis of viewpoint.

(2) A student organization using a University limited public forum may invite a non-affiliated person to participate in the student organization's free expression activities, subject to the terms of the

invitation and subject to the time, place, and manner restrictions in Section .08. The student organization that invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.

(3) A faculty member using a University limited public forum in the exercise of his or her academic freedom may invite a non-affiliated person to participate in the faculty member's free expression activities, subject to the terms of the invitation and subject to the time, place, and manner restrictions in Section .08. The faculty member who invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.

(4) A non-affiliated person invited pursuant to this Section .04 is not a guest of the University. Rather, the non-affiliated person is a guest of the student organization or faculty member who is using the University's limited public forum.

(5) A student organization or faculty member deciding whom to invite or not invite as a participant in free expression activities in a University limited public forum pursuant to this Section .04 does not exercise the governmental authority of the University or the State of Tennessee (i.e., the student organization or faculty member is not acting as a governmental official deciding who is allowed to use a limited public forum). Rather, the student organization or faculty member is the user of the forum, with First Amendment rights to decide whom to include in the free expression activities. An invitation extended to a non-affiliated person by a student organization or faculty member under this Section .04 shall not be construed to imply approval or endorsement by the University of the views expressed by the non-affiliated person.

(6) The participation of a non-affiliated person in free expression activities under this Section .04 is by invitation initiated by a student organization or faculty member. Nothing in this Chapter shall be construed to grant a non-affiliated person a right to solicit such an invitation from a student organization or faculty member or require a student organization or faculty member to respond to such a solicitation from a non-affiliated person.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.05 Non-Affiliated Persons Invited to Participate in Free Expression Activities in Connection with an Official Activity of a University Unit.

(1) A University unit may invite a non-affiliated person to participate in free expression activities in connection with an official activity of the University unit (e.g., lecture, presentation, debate, panel, symposium) if the head of the University unit determines that the non-affiliated person's participation would advance one or more of the University's principal missions of teaching, research, and service. In making such a determination, the head of the University unit is deciding how to use University property to advance the University's mission. That decision is government speech, which is not subject to the restrictions of the First Amendment's Free Speech Clause.

(2) The participation of a non-affiliated person in free expression activities under this Section .05 is by invitation initiated by a University unit. Nothing in this Chapter shall be construed to grant non-affiliated persons a right to solicit such an invitation or to require a University unit to respond to such a solicitation from a non-affiliated person.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.06 University Streets and Sidewalks.

(1) Subject to the time, place, and manner restrictions in Section .08, the following University property may be used by a non-affiliated person for free expression activities:

(a) A street owned or controlled by the University;

(b) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by the University; or

(c) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by a municipality, county, or the State of Tennessee.

(2) Section .06(1) does not include: University access or service roads (i.e., roads with the primary function of providing for the movement of vehicular traffic between a street and a University facility or parking lot); parking lots; ramps; alleys; mass transit loading zones or waiting areas; driveways; or any property with the primary function of providing for the movement of pedestrian traffic, such as sidewalks not described in Section .06(1), pedestrian malls, pedestrian bridges, greenways, and trails.

(3) This Chapter does not apply to streets, sidewalks, or other traditional or designated public forums owned by a municipality, county, or the State of Tennessee, the uses of which are subject to compliance with federal, state, or local law, rule, regulation, or ordinance.

(4) For purposes of this Section .06, the term "State of Tennessee" does not include the University.

(5) Each campus shall publish on its website a map that indicates the streets and sidewalks described in Section .06(1).

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.07 Other Free Expression Activities.

(1) Subject to the time, place, and manner restrictions in Section .08, a non-affiliated person may communicate a message on "The Rock" at the University of Tennessee, Knoxville.

(2) Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person who is engaged in a use of University property permitted under Chapter 1720-01-02 (Use of University Property) from engaging in free expression activities such as a private conversation, gesturing, operating a vehicle displaying written expression, standing, or wearing expressive clothing, accessories, buttons, or stickers.

(3) Certain University activities and events are open to attendance by non-affiliated persons at a designated place and time, such as athletic contests, plays, lectures, and concerts. Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person from attending and participating in such an activity or event and participating in free expression activities germane to the activity or event (e.g., cheering at a football game, singing at a concert).

(4) The University may designate certain University property as available for lease to non-affiliated persons for free expression activities under standard terms and conditions and subject to the time, place, and manner restrictions in Section .08. In the event of any inconsistency between this Chapter and the terms of a lease agreement between the University and a non-affiliated person, the terms of the lease agreement shall control over this Chapter.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.08 Time, Place, and Manner Restrictions.

(1) The University will regulate the time, place, and manner of free expression activities in order to prevent substantial disruption of the advancement of the University's teaching, research, or service missions; prevent substantial disruption of normal or scheduled uses of University property by persons affiliated with the University; facilitate traffic on University property; preserve

residential tranquility for students; preserve an atmosphere conducive to learning; preserve University property and prevent the use of University property contrary to law or University policies; and protect the health, safety, and welfare of persons affiliated with the University and/or persons using University property pursuant to Chapter 1720-01-02 (Use of University Property).

(2) A non-affiliated person using University property shall not:

(a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic, as the right of way of streets, sidewalks, and pedestrian malls must be maintained;

(b) block or substantially impede entrances or exits to University property;

(c) substantially disrupt or interfere with University operations, events, or activities;

(d) substantially disrupt or interfere with the ability of a student to sleep or study in a University residence hall between the hours of 10:00 p.m. and 6:00 a.m. during an academic term, or the ability of a student to study in a University library;

(e) violate a federal, state, or local law, rule, regulation, or ordinance;

(f) engage in speech that is obscene; is defamatory; consists of fighting words; communicates an objectively serious expression of intent to commit an act of unlawful violence to a particular individual or group; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

(g) engage in camping in violation of Tennessee law, the Equal Access to Public Property Act of 2012, unless the area on which camping occurs has been specifically designated by the University as available for camping;

(h) unreasonably threaten the health or safety of another person; or

(i) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.

(3) A non-affiliated person permitted to distribute printed materials under this Chapter shall refrain from littering and may be held responsible for costs incurred as a result of littering.

(4) A non-affiliated person shall not place any signs, banners, posters, or other displays on or against, attach them to, or write on any structure or natural feature of University property, including, but not limited to, doors, buildings, windows, walls, the surface of walkways or roads, fountains, utility poles, lampposts, waste receptacles, trees, street signs, ash urns, benches, bus stops, University-owned signage, emergency phones, railings, newsstands, and utility boxes. Nor may any chalk, paint, or permanent markings be placed on or against, attached to, or written on such structures or natural features. Signs, banners, posters, and other displays causing ground penetration are prohibited. This Section .08(4) shall not apply to "The Rock" at the University of Tennessee, Knoxville.

(5) A non-affiliated person shall not distribute printed materials on motor vehicles parked on University property.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

* 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)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda				x	
Charles C. Anderson, Jr.	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Robert J. Duncan			Non-voting		
J. Brian Ferguson	x				
John N. Foy	x				
Crawford Gallimore	x				
Dr. David Golden			Non-voting		
Vicky B. Gregg	x				
Monice Moore Hagler	x				
Raja J. Jubran	x				
Brad A. Lampley				x	
Bonnie E. Lynch	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Karl A. Schledwitz	x				
Don C. Stansberry, Jr.	x				
Betty Ann Tanner	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				
Dr. Thaddeus A. Wilson	x				

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

Date: 06/~~19~~ 20/2014

Signature:

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 6-20-14

Notary Public Signature: Lynette Russell

My commission expires on: 1-27-15

LYNNETTE RUSSELL STATE OF TENNESSEE NOTARY PUBLIC KNOX COUNTY

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-14-14
Date

Department of State Use Only

Filed with the Department of State on: 7/18/14

Effective for: 180 *days

Effective through: 1/14/15

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

RECEIVED 2014 JUL 18 PM 1:12 OFFICE OF SECRETARY OF STATE

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: Use of University Property by Non-Affiliated Persons for Free Expression Activities

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-9-209(e)

EFFECTIVE DATES: October 15, 2014 through June 30, 2015

FISCAL IMPACT: Minimal to none

STAFF RULE ABSTRACT: This new rule regulates free expression activities on University property by persons other than University students, employees, and volunteers. Because the University is an instrumentality of the state of Tennessee, the rule must conform to the requirements of the First Amendment to the United States Constitution.

Section .01 describes the basic purpose of the rule and explains the relation of the rule to other University rules. Section .01 also notes that this rule replaces the "Speaker Policy" adopted by the University's Board of Trustees on June 19, 1969, a copy of which is included in the meeting materials following the new rule. The Speaker Policy only addressed the subject of outside speakers invited by student organizations.

Section .02 sets forth definitions of key terms used in the rule. The rule uses common First Amendment terms like "traditional public forum," "designated public forum," "limited public forum," "nonpublic forum," and "free expression activities," and defines those terms consistently with First Amendment jurisprudence.

Section .03 sets forth the general rule that University property is not open for free expression activities for persons who are not students, employees, or volunteers. Courts have rejected the proposition that a university must make all of its property equally available to students and nonstudents alike, or that a university must grant free

access to all of its property. The University, no less than a private owner of property, has the legal right to preserve the property under its control for the use to which it is lawfully dedicated. Section .03 explains that University property, which consists primarily of its many campus grounds and facilities, is dedicated to the advancement of the University's principal missions of teaching, research, and service. The University's property is not open, either by tradition or by University policy, for the general public's free expression activities, in the sense that many public streets, sidewalks, parks, auditoriums, or meeting rooms are often available in society as public forums for expression. Section .03 also explains that any free expression activity permitted under the rule is subject to the time, place, and manner restrictions in Section .08.

Section .04 recognizes that the University makes available limited public forums for use by its students and faculty members for free expression activities. Section .04 provides that a person not affiliated with the University may be invited by a student organization or a faculty member to participate in those free expression activities (for example, as a speaker, panelist, commentator, or performing artist). In such instances, the invited participant is not a guest of *the University*, and the invitation is not extended by *the University*, but rather the invited participant is a guest of the student organization or faculty member. In deciding whom to invite or not invite, the student organization or faculty member is not exercising the governmental authority of the University to decide who is allowed to use the limited public forum. Rather, they are the users of the forum with the First Amendment freedom to decide whom to include in the free expression activities. An invitation extended to a non-affiliated person under Section .04 does not imply approval or endorsement by the University of the views expressed by the non-affiliated person.

Section .05 provides that a person not affiliated with the University may be invited by a University unit to participate in free expression activities in connection with an official activity of the unit (for example, a lecture, presentation, debate, panel, or symposium) if the head of a University unit determines that the person's participation in the activity would advance one or more of the University's principal missions of teaching, research, and service.

Section .06 allows a person not affiliated with the University to use certain streets and sidewalks owned by the University for free expression activities.

Section .07 allows a person not affiliated with the University to use University property for certain other free expression activities.

Section .08 establishes reasonable regulations of the time, place, and manner of free expression activities permitted under other sections of the rule. These regulations serve such purposes as preventing substantial disruption of the advancement of the University's missions; preventing the disruption of the use of University property by the University community; preventing the use of University property contrary to law or University policies; and protecting the health, safety, and welfare of persons in the University community. For example, a person permitted to use University property for free expression activities is not allowed to block pedestrian traffic; block an entrance to a building; violate the law; disrupt a University activity; or damage the property.

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 University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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For Department of State Use Only

Sequence Number: 07-18-14
Rule ID(s): 5764
File Date: 7/18/14
Effective Date: 12/29/14

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:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Assistant General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

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**
1720-01-12	Use of University Property by Non-Affiliated Persons for Free Expression Activities
Rule Number	**Rule Title**
1720-01-12-.01	Purpose and Application of This Chapter
1720-01-12-.02	Definitions
1720-01-12-.03	General Rules
1720-01-12-.04	Non-Affiliated Persons Invited to Participate in the Free Expression Activities of Student Organizations and Faculty Members Using Limited Public Forums
1720-01-12-.05	Non-Affiliated Persons Invited to Participate in Free Expression Activities in Connection with an Official Activity of a University Unit
1720-01-12-.06	University Streets and Sidewalks
1720-01-12-.07	Other Free Expression Activities
1720-01-12-.08	Time, Place and Manner Restrictions

The University of Tennessee (All Campuses)
Chapter 1720-01-12
Use of University Property by Non-Affiliated Persons for Free Expression Activities
New Rule

Chapter 1720-01-12 is added to Chapter 1720-01 All Campuses and shall read as follows:

Chapter 1720-01-12 Use of University Property by Non-Affiliated Persons for Free Expression Activities

1720-01-12-.01 Purpose and Application of This Chapter. The purpose of this Chapter is to provide a uniform basis on which the University of Tennessee will regulate the use of University property by non-affiliated persons for free expression activities through reasonable, viewpoint neutral regulations consistent with and in furtherance of the University's principal missions of teaching, research, and service. To the extent of any conflict between this Chapter and Chapter 1720-01-02 (Use of University Property), Chapter 1720-01-08 (Assembly Policy), or Chapter 1720-01-07 (Solicitation on University Property), this Chapter shall control. This Chapter supersedes and replaces the "Speaker Policy" adopted by the University of Tennessee Board of Trustees on June 19, 1969.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.02 Definitions.

(1) The term "academic freedom" means the academic freedom of a University faculty member described in the University of Tennessee Board of Trustees' Policies Governing Academic Freedom, Responsibility, and Tenure.

(2) The term "designated public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by members of the general public.

(3) The term "free expression activities" means expression and/or assemblies protected by the First Amendment, including, but not limited to, picketing, distributing printed materials, public speaking, demonstrations, rallies, vigils, parades, and marches.

(4) The term "limited public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by certain groups or opened by the University for the purpose of free expression activities that are dedicated solely to the discussion of certain subjects.

(5) The term "non-affiliated person" means any person or entity who is not a University unit, student, student organization, employee, or volunteer.

(6) The term "nonpublic forum" means property that is not a forum for free expression activities.

(7) The term "printed materials" means publications, handbills, posters, leaflets, petitions, fliers and all other types of written matter.

(8) The term "public speaking" means:

(a) orally and audibly expressing;

(b) a message, idea, opinion, concept, principle, or belief;

(c) to one or more other persons;

(d) in public; and

(e) in a manner other than through a private conversation.

(9) The term "student organization" means a student organization registered with the University in accordance with University rules.

(10) The term "traditional public forum" means property that by tradition or by government fiat is open to assembly and debate by members of the general public, such as city streets, sidewalks, and parks.

(11) The term "University" means the campuses, centers, and institutes of the University of Tennessee, and all their constituent parts, and the University of Tennessee system administration.

(12) The term "University unit" means any academic, administrative, or auxiliary department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

(13) The term "University property" means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.03 General Rules.

(1) The University's property is dedicated to the advancement of the University's principal missions of teaching, research, and service. The University's property is not a traditional public forum or a designated public forum and thus is not open for use by non-affiliated persons, either by tradition or by University policy, for free expression activities, except as otherwise expressly provided in this Chapter. Rather, with the exception of the streets and sidewalks described in Section .06, University property consists of a variety of limited public forums and nonpublic forums.

(2) Free expression activities permitted by this Chapter are subject to the time, place, and manner restrictions in Section .08.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.04 Non-Affiliated Persons Invited to Participate in the Free Expression Activities of Student Organizations and Faculty Members Using Limited Public Forums.

(1) The University has opened many of its outdoor spaces and indoor facilities as limited public forums for use by students and by faculty members exercising academic freedom. In accordance with well-established First Amendment law, the University does not regulate these free expression activities on the basis of viewpoint.

(2) A student organization using a University limited public forum may invite a non-affiliated person to participate in the student organization's free expression activities, subject to the terms of the invitation and subject to the time, place, and manner restrictions in Section .08. The student organization that invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.

(3) A faculty member using a University limited public forum in the exercise of his or her academic freedom may invite a non-affiliated person to participate in the faculty member's free expression activities, subject to the terms of the invitation and subject to the time, place, and manner restrictions in Section .08. The faculty member who invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.

(4) A non-affiliated person invited pursuant to this Section .04 is not a guest of the University. Rather, the non-affiliated person is a guest of the student organization or faculty member who is using the University's limited public forum.

(5) A student organization or faculty member deciding whom to invite or not invite as a participant in free expression activities in a University limited public forum pursuant to this Section .04 does not exercise the governmental authority of the University or the State of Tennessee (i.e., the student organization or faculty member is not acting as a governmental official deciding who is allowed to

use a limited public forum). Rather, the student organization or faculty member is the user of the forum, with First Amendment rights to decide whom to include in the free expression activities. An invitation extended to a non-affiliated person by a student organization or faculty member under this Section .04 shall not be construed to imply approval or endorsement by the University of the views expressed by the non-affiliated person.

(6) The participation of a non-affiliated person in free expression activities under this Section .04 is by invitation initiated by a student organization or faculty member. Nothing in this Chapter shall be construed to grant a non-affiliated person a right to solicit such an invitation from a student organization or faculty member or require a student organization or faculty member to respond to such a solicitation from a non-affiliated person.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.05 Non-Affiliated Persons Invited to Participate in Free Expression Activities in Connection with an Official Activity of a University Unit.

(1) A University unit may invite a non-affiliated person to participate in free expression activities in connection with an official activity of the University unit (e.g., lecture, presentation, debate, panel, symposium) if the head of the University unit determines that the non-affiliated person's participation would advance one or more of the University's principal missions of teaching, research, and service. In making such a determination, the head of the University unit is deciding how to use University property to advance the University's mission. That decision is government speech, which is not subject to the restrictions of the First Amendment's Free Speech Clause.

(2) The participation of a non-affiliated person in free expression activities under this Section .05 is by invitation initiated by a University unit. Nothing in this Chapter shall be construed to grant non-affiliated persons a right to solicit such an invitation or to require a University unit to respond to such a solicitation from a non-affiliated person.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.06 University Streets and Sidewalks.

(1) Subject to the time, place, and manner restrictions in Section .08, the following University property may be used by a non-affiliated person for free expression activities:

(a) A street owned or controlled by the University;

(b) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by the University; or

(c) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by a municipality, county, or the State of Tennessee.

(2) Section .06(1) does not include: University access or service roads (i.e., roads with the primary function of providing for the movement of vehicular traffic between a street and a University facility or parking lot); parking lots; ramps; alleys; mass transit loading zones or waiting areas; driveways; or any property with the primary function of providing for the movement of pedestrian traffic, such as sidewalks not described in Section .06(1), pedestrian malls, pedestrian bridges, greenways, and trails.

(3) This Chapter does not apply to streets, sidewalks, or other traditional or designated public forums owned by a municipality, county, or the State of Tennessee, the uses of which are subject to compliance with federal, state, or local law, rule, regulation, or ordinance.

(4) For purposes of this Section .06, the term "State of Tennessee" does not include the University.

(5) Each campus shall publish on its website a map that indicates the streets and sidewalks described in Section .06(1).

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.07 Other Free Expression Activities.

(1) Subject to the time, place, and manner restrictions in Section .08, a non-affiliated person may communicate a message on "The Rock" at the University of Tennessee, Knoxville.

(2) Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person who is engaged in a use of University property permitted under Chapter 1720-01-02 (Use of University Property) from engaging in free expression activities such as a private conversation, gesturing, operating a vehicle displaying written expression, standing, or wearing expressive clothing, accessories, buttons, or stickers.

(3) Certain University activities and events are open to attendance by non-affiliated persons at a designated place and time, such as athletic contests, plays, lectures, and concerts. Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person from attending and participating in such an activity or event and participating in free expression activities germane to the activity or event (e.g., cheering at a football game, singing at a concert).

(4) The University may designate certain University property as available for lease to non-affiliated persons for free expression activities under standard terms and conditions and subject to the time, place, and manner restrictions in Section .08. In the event of any inconsistency between this Chapter and the terms of a lease agreement between the University and a non-affiliated person, the terms of the lease agreement shall control over this Chapter.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-12-.08 Time, Place, and Manner Restrictions.

(1) The University will regulate the time, place, and manner of free expression activities in order to prevent substantial disruption of the advancement of the University's teaching, research, or service missions; prevent substantial disruption of normal or scheduled uses of University property by persons affiliated with the University; facilitate traffic on University property; preserve residential tranquility for students; preserve an atmosphere conducive to learning; preserve University property and prevent the use of University property contrary to law or University policies; and protect the health, safety, and welfare of persons affiliated with the University and/or persons using University property pursuant to Chapter 1720-01-02 (Use of University Property).

(2) A non-affiliated person using University property shall not:

(a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic, as the right of way of streets, sidewalks, and pedestrian malls must be maintained;

(b) block or substantially impede entrances or exits to University property;

(c) substantially disrupt or interfere with University operations, events, or activities;

(d) substantially disrupt or interfere with the ability of a student to sleep or study in a University residence hall between the hours of 10:00 p.m. and 6:00 a.m. during an academic term, or the ability of a student to study in a University library;

(e) violate a federal, state, or local law, rule, regulation, or ordinance;

(f) engage in speech that is obscene; is defamatory; consists of fighting words; communicates an objectively serious expression of intent to commit an act of unlawful violence to a particular individual or group; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

(g) engage in camping in violation of Tennessee law, the Equal Access to Public Property Act of 2012, unless the area on which camping occurs has been specifically designated by the University as available for camping;

(h) unreasonably threaten the health or safety of another person; or

(i) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.

(3) A non-affiliated person permitted to distribute printed materials under this Chapter shall refrain from littering and may be held responsible for costs incurred as a result of littering.

(4) A non-affiliated person shall not place any signs, banners, posters, or other displays on or against, attach them to, or write on any structure or natural feature of University property, including, but not limited to, doors, buildings, windows, walls, the surface of walkways or roads, fountains, utility poles, lampposts, waste receptacles, trees, street signs, ash urns, benches, bus stops, University-owned signage, emergency phones, railings, newsstands, and utility boxes. Nor may any chalk, paint, or permanent markings be placed on or against, attached to, or written on such structures or natural features. Signs, banners, posters, and other displays causing ground penetration are prohibited. This Section .08(4) shall not apply to "The Rock" at the University of Tennessee, Knoxville.

(5) A non-affiliated person shall not distribute printed materials on motor vehicles parked on University property.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

* 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)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda				x	
Charles C. Anderson, Jr.	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Robert J. Duncan			Non-voting		
J. Brian Ferguson	x				
John N. Foy	x				
Crawford Gallimore	x				
Dr. David Golden			Non-voting		
Vicky B. Gregg	x				
Monice Moore Hagler	x				
Raja J. Jubran	x				
Brad A. Lampley				x	
Bonnie E. Lynch	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Karl A. Schledwitz	x				
Don C. Stansberry, Jr.	x				
Betty Ann Tanner	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				
Dr. Thaddeus A. Wilson	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 06/19/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 06/20/2014

Signature:

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel

LYNETTE RUSSELL STATE OF TENNESSEE NOTARY PUBLIC KNOX COUNTY

Subscribed and sworn to before me on: 6-20-14

Notary Public Signature: Lynette Russell

My commission expires on: 1-27-15

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

7-14-14
Date

Department of State Use Only

Filed with the Department of State on: 7/18/14

Effective on: 12/29/14

Tre Hargett
Secretary of State

RECEIVED 2014 JUL 18 PM 1:50 OFFICE OF SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	University of Tennessee
DIVISION:	
SUBJECT:	Access to University Property
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 49-9-209(e)
EFFECTIVE DATES:	October 15, 2014 through June 30, 2015
FISCAL IMPACT:	Minimal to none
STAFF RULE ABSTRACT:	This rule provides that university property is dedicated to the advancement of the university's principal missions of teaching, research, and service. The law allows the university, like a private owner of property, to preserve the property under its control for the uses to which it is dedicated. The rule describes the categories of persons generally authorized to use university property.

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 University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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For Department of State Use Only

Sequence Number: 07-17-14
Rule ID(s): 5762 - 5763
File Date: 7/18/14
Effective Date: 12/29/14

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:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Assistant General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

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**
1720-01-02	Access to University Property
Rule Number	**Rule Title**
1720-01-02-.01	Restrictions

Chapter Number	**Chapter Title**
1720-01-02	Use of University Property
Rule Number	**Rule Title**
1720-01-02-.01	Dedication of University Property
1720-01-02-.02	Authorized Users

RULES
OF
THE UNIVERSITY OF TENNESSEE
(ALL CAMPUSES)

~~**CHAPTER 1720-1-2**~~
~~**ACCESS TO UNIVERSITY PROPERTY**~~

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~~1720-1-2-.01 Intent~~ ~~1720-1-2-.02 Repealed~~

~~**1720-1-2-.01 RESTRICTIONS.** The University's campuses and facilities shall be restricted to students, faculty, staff, guests, and invitees except on such occasions when all or part of the campuses, buildings, stadia, and other facilities are open to the general public.~~

~~***Authority:*** *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64.* ***Administrative History:*** *Original rule filed September 15, 1976; effective October 15, 1976.*~~

~~**1720-1-2-.02 REPEALED.**~~

~~***Authority:*** *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64.* ***Administrative History:*** *Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986.*~~

CHAPTER 1720-01-02
USE OF UNIVERSITY PROPERTY

1720-01-02-.01 DEDICATION OF UNIVERSITY PROPERTY. The University of Tennessee dedicates its property to the advancement of the University's principal missions of teaching, research, and service.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-02-.02 AUTHORIZED USERS. The following persons or groups may use University property, subject to other University rules, policies, or procedures adopted by a University campus, center, or institute, and federal, state, and local laws:

(1) University students;

(2) University employees;

(3) Members of the Board of Trustees;

(4) Government officials;

(5) A person or entity invited by the University, including, but not limited to, a University contractor;

(6) A person who has been invited by a student, a student organization, or an employee in his/her personal capacity, to join the student, student organization, or employee in the use of University property (e.g., friends and family), but not including the use of University property for free expression activities;

(7) A person using University property for free expression activities pursuant to Chapter 1720-01-12 (Use of University Property for Free Expression Activities by Non-Affiliated Persons);

(8) Volunteers of the University, as defined by University policy;

(9) Prospective students visiting University property and persons accompanying prospective students;

(10) Alumni visiting University property and persons accompanying alumni;

(11) A person who has a right of access to University property under Tennessee Code Annotated § 8-50-1001 or any other statutory provisions permitting access to University property;

(12) Any person or entity engaged in one of the following uses of University property:

(a) The use of University property for the purpose of attending a University activity or event that is open to attendance by the members of the general public at a designated place and time (e.g., athletic contests, plays, lectures, concerts);

(b) The use of University-owned streets, or University-owned sidewalks bordering University-owned streets, as thoroughfares while traveling from one location to another location;

(c) The use of University property that is open to the general public (e.g., campus bookstore, library, museum);

(d) The use of University property consistent with the terms of a lease agreement with the University; or

(e) The use of University property for a purpose relating to obtaining medical treatment from the University.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-01-02-.03 USE OF UNIVERSITY PROPERTY FOR FREE EXPRESSION ACTIVITIES. Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities) governs the use of University property for free expression activities by persons who are not affiliated with the University. To the extent of any conflict between this Chapter and Chapter 1720-01-12, Chapter 1720-01-12 shall control.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

* 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)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda				x	
Charles C. Anderson, Jr.	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Robert J. Duncan			Non-voting		
J. Brian Ferguson	x				
John N. Foy	x				
Crawford Gallimore	x				
Dr. David Golden			Non-voting		
Vicky B. Gregg	x				
Monice Moore Hagler	x				
Raja J. Jubran	x				
Brad A. Lampley				x	
Bonnie E. Lynch	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Karl A. Schledwitz	x				
Don C. Stansberry, Jr.	x				
Betty Ann Tanner	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				
Dr. Thaddeus A. Wilson	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 06/19/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 06/20/2014

Signature:

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel

LYNNETTE RUSSELL STATE OF TENNESSEE NOTARY PUBLIC KNOX COUNTY

Subscribed and sworn to before me on: 6-20-14

Notary Public Signature: Lynnette Russell

My commission expires on: 1-27-15

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

7-14-14
Date

Department of State Use Only

Filed with the Department of State on: 7/18/14

Effective on: 12/29/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	University of Tennessee
DIVISION:	
SUBJECT:	Traffic and Parking Regulations – Towing Fine and Storage Fee Increases
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 49-9-209(e)
EFFECTIVE DATES:	October 15, 2014 to June 30, 2015
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rule amendment increases the towing fine at the University of Tennessee, Knoxville from $42.00 to $60.00, with a $5.00 per day storage fee. According to the University, the increase of $18.00 will match the University's towing cost of $60.00. The cost to remove a wheel boot device will remain $42.00, plus a $3.00 per day storage fee.

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 University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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Sequence Number: 07-19-14
Rule ID(s): 5765
File Date: 7/18/14
Effective Date: 12/29/14

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:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Assistant General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

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**
1720-04-05	Traffic and Parking Regulations
Rule Number	**Rule Title**
1720-04-05-.07	Penalties

The University of Tennessee, Knoxville
Chapter 1720-04-05
Traffic and Parking Regulations
Amendments

Rule 1720-04-05-.07 Penalties is amended by adding subparagraph (1)(e) and by deleting subparagraph (1)(d) in its entirety and substituting the following language so that, as amended, new subparagraphs (1)(d) and (1)(e) shall read:

(d) Impounded/towed vehicle $60.00 (plus $5.00 per day storage fee)

(e) Booted vehicle $42.00 (plus $3.00 per day storage fee)

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

Redlined

RULES
OF
THE UNIVERSITY OF TENNESSEE

CHAPTER 1720-04-5
TRAFFIC AND PARKING REGULATIONS

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		1720-04-5-.09	Restrictions
1720-04-5-.04	Vehicle Operation	1720-04-5-.10	Special Occasions and Emergencies
1720-04-5-.05	Violations	1720-04-5-.11	Pedestrian Regulations

1720-04-5-.01 GENERAL.

(1) These regulations are established by the Traffic and Parking Authority of The University of Tennessee as directed by resolution of The University of Tennessee Board of Trustees on June 20, 1968. They are applicable to all students, faculty, staff, and visitors on the Knoxville campus of The University of Tennessee. Students are required to obey these regulations as a condition of attendance at the University, and faculty and staff (hereinafter referred to as staff) members are required to obey them as a condition of employment.

(2) The purpose of these regulations is to facilitate the safe and orderly conduct of University business and provide parking facilities in support of this function within the limits of available space.

(3) The UT Police Department is responsible for implementation and enforcement of these regulations. Records are maintained by the Parking and Transit Services Department, 974-6031.

(4) The University shall have no responsibility for loss or damage to any vehicle or its contents operated or parked on the Knoxville campus of The University of Tennessee.

(5) Regulations are enforceable seven (7) days a week, twenty-four (24) hours a day, including holidays and breaks.

Authority: *T.C.A §49-9-209(e).*

1720-04-5-.02 REGISTRATION OF VEHICLES.

(1) All motor vehicles operated by staff and students in connection with their employment or attendance at The University of Tennessee must be registered with the Parking and Transit Services Department. Registration alone does not confer any parking privileges at any time on campus. Registration improves the security of campus, identifies the operator as affiliated with the University and provides for more expedient notification in the event of any emergency. THERE WILL BE NO CHARGE FOR REGISTRATION.

(2) Transferable registration hanging tags will be issued to staff and students registering their vehicles. To be valid, these tags must be clearly visible and hanging from the rear view mirror of the registrant's vehicle.

(3) Registration tags are not parking permits and do not confer any parking privileges at any time on campus.

(4) Parking at University Apartments requires a special registration tag that is to be obtained from the Resident Manager's Office of the apartment complex of residency. This tag will authorize parking at a particular housing unit only. Parking in University lots on the Agriculture and Main Campuses will require the appropriate staff or student parking permit, which may be obtained at the Parking and Transit Services Department, University Center, Room 24, or 2121 Stephenson Drive.

(5) Vehicle registration must be renewed at the beginning of each Fall Semester and is valid until the beginning of the following Fall Semester so long as the registrant remains a student or a University employee.

(6) Staff vehicle registrations must be accomplished within 72-hours of joining the University staff and within 72-hours of acquiring a vehicle. A temporary permit is required during this initial 72-hour period. Staff vehicle registration must be renewed each year at the beginning of the parking year (August 1 through July 31).

(7) Student vehicle registration must be accomplished by the first day of class or within 72 hours of acquiring a vehicle. A temporary permit is required during this 72-hour period.

(8) Lost or stolen registration tags (E tags, K tags) will be replaced without charge.

(9) The person to whom a vehicle is registered is responsible for that vehicle and all violation citations issued thereto. If the person operating the vehicle is other than the registrant when a violation is committed, both he/she and the registrant may be cited.

(10) Specific EXPIRATION DATES are indicated on each registration tag.

(11) Ownership of vehicle registration is not transferable.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.03 STAFF SPACE ALLOCATION AND PARKING ASSIGNMENT.

(1) Parking spaces will be allocated to the departments through the appropriate dean or director.

(2) Deans or directors will make individual assignments not to exceed the number of spaces allocated.

(a) Priority of assignment is up to each department; however, professional rank, seniority, job requirements or physical limitations should be prime considerations.

(b) Assignments will be made by the Parking and Transit Services Department in accordance with instructions from deans or directors.

(c) Assignments and permits extend from the time of issuance to the beginning of the following fall semester.

(d) Staff members will present to the Parking and Transit Services Department letters of authorization from deans or directors for area assignment.

Authority: *T.C.A.§49-9-209(e).*

1720-04-5-.04 VEHICLE OPERATION.

(1) All persons operating a vehicle on University property or in the campus area, which includes city streets running through University property, must be properly licensed operators.

(2) Pedestrians have the right of way at established pedestrian crossings, except where regulated by traffic control lights or police officers.

(3) Under normal conditions the maximum speed limit on campus streets is 20 mph and 30 mph on the city streets or as posted. However, vehicles may not be operated at any speed which is excessive for the conditions which may exist as a result of weather, traffic congestion, pedestrians, etc.

(4) Traffic control signs, devices and directions of police officers will be obeyed.

(5) All persons operating vehicles are responsible for maintaining control of the vehicle, safe operation of the vehicle, and observance of traffic control signs, barriers, and devices.

(6) Operating a motor vehicle in any area other than a street or roadway intended for motor vehicles is prohibited.

(7) All accidents must be reported to the University Police immediately (974-3111).

(8) Bicycles operated on campus or city streets will be controlled under the same regulations and conditions that apply to motor vehicles.

Authority: *Public Acts of Tennessee, 1839-1840, chapter 98, Section 5 and Public Acts of Tennessee, 1807, chapter 64.*

1720-04-5-.05 VIOLATIONS.

(1) The following examples shall constitute violations of these regulations:

(a) Registration

1. On University property with no visible permit or registration tag

2. Altered or mutilated registration tag or parking permit

3. Unauthorized possession of registration tag or parking permit

4. Falsification of registration information

(b) Parking

1. In a no parking zone

2. In unauthorized area

3. In loading zone (including loading dock)

4. Blocking Demptster Dumpster

5. In fire lane

6. Blocking or obstructing traffic, street, sidewalk driveway, fire hydrant, building entrance or exit or another vehicle.

7. Parked wrong way on one-way street

8. Parked overtime

9. Disability parking violation, as defined by State law (e.g., an unauthorized use of a disabled parking space, ramp, plate, or placard; parking a vehicle so that a portion of the vehicle encroaches into a disabled parking space in a manner which restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a vehicle properly parked within the disabled parking space)

10. Parked outside lines or appropriately marked space

(c) Moving

1. Exceeding posted speed limit

2. Excessive speed for existing conditions

3. Failure to obey traffic control signal or sign

4. Failure to obey a police officer

5. Operating a vehicle without a valid operator's license

6. Driving off of roadway or street

7. Reckless driving and/or racing

8. Failure to yield right-of-way at pedestrian crossing

9. Leaving scene of accident

10. Failure to signal turn or stop

11. Wrong way on one-way street

12. Following too closely

13. Operating mechanically unsafe vehicle

14. Driving while under the influence of alcohol or narcotics

15. Operating vehicle causing loud or unnecessary noise, such as loud mufflers, horns, P.A. systems, etc.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.06 ENFORCEMENT.

(1) University violation citations must be answered in person or by mail at the Parking and Transit Services Department, University Center, Room 24, or 2121 Stephenson Drive, within fourteen (14) calendar days after issuance to avoid 50% penalty for late payment or forfeiture of right to appeal.

(2) City citations must be answered as indicated on the citations.

(3) Vehicles having a violation citation(s) which has not been satisfactorily disposed of by payment of assessed penalties/fines within the fourteen (14) calendar day period or by a successful appeal may be towed/booted whenever found parked on University property, provided the owner of such vehicle will first be notified in writing of

(a) The existence of delinquent violation citation(s);

(b) The owner's right to a hearing and where such hearing may be obtained; and

(c) The University's intent to tow/boot such vehicle when it is next found on University property, whether parked legally or illegally.

(4) Vehicles parked in a fire lane, designated handicapped parking space, reserved parking space, or in such manner as to impede the flow of traffic or disrupt the orderly affairs of the University may be impounded/booted. Owners of vehicles impounded/booted for the above reasons have a right to a hearing that will be provided on request prior to the payment of penalties.

(5) Hearing will be provided at the Parking and Transit Services Department located at University Center, Room 24.

(6) Impounded vehicles may be claimed at University Center, Room 24, M-F, 8:30 a.m.-4:30 p.m. After this time, vehicles may be claimed at UT Police Department, 1101 Cumberland Avenue. Impounded vehicles will be released only upon proper identification.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.07 PENALTIES.

(1) Fines and Other Penalties for Violations - Staff, Students and Visitors

(a) Registration violation $32.00 (except an altered or mutilated registration tag or parking permit violation, an unauthorized possession of registration tag or parking permit violation, and a falsification of registration information violation, the penalty for each of which is $250.00).

(b) Parking violation $24.00, except for the following violations:

1. Fire lane violation $42.00

2. Disability parking violation. The fine for a disability parking violation is set by State law, Tennessee Code Annotated section 55-21-108. As of July 1, 2008, the fine was set at two hundred dollars ($200). The fine imposed under these regulations will increase or decrease automatically when

increased or decreased by State law. The fine for a disability parking violation shall not be suspended or waived. In addition to the fine, not more than five (5) hours of community service work may be imposed for a disability parking violation. Any community service work requirements imposed shall be to assist the disabled community by monitoring disabled parking spaces, providing assistance to disability centers or to disabled veterans, or other such purposes.

(c) Moving violation $29.00

(d) Impounded/towed vehicle $60.00 (plus $5.00 per day storage fee)

(~~d~~e) ~~Impounded/b~~Booted vehicle $42.00 (plus $3.00 per day storage fee)

(2) If a citation is not paid or appealed within fourteen (14) calendar days after issuance, a penalty of 50% of the fee will be assessed. In case a citation is appealed, all amounts due must be paid within fourteen (14) calendar days of notification that the original appeal was not sustained.

(3) Disciplinary Action - Staff and Students.

(a) Any staff member or student who has failed to pay citations is subject to disciplinary action up to and including termination or dismissal from the University.

(b) Students with outstanding traffic citations will not be permitted to register at the beginning of the semester until indebtedness is cleared.

(c) A staff member with outstanding traffic citations will not be allowed to register a vehicle or purchase a parking permit.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.08 APPEALS.

(1) Student and Staff Appeals Boards are appointed by the Traffic and Parking Authority:

(2) A written appeal, using the form supplied by the Parking and Transit Services Department, is the initial step in the appeals process. This must be done within fourteen (14) calendar days from the issuance of the citation or the right of appeal will be forfeited. Appeals must be made by the person cited or person to whom the vehicle is registered. Oral or written requests from other persons will not be accepted except to clarify that a person cited is not an active UT employee or student.

(3) Failure to appear without prior notice at scheduled Staff or Student Appeals Board meetings will result in forfeiture of right to appeal to the Board.

(4) A Staff Appeals Board meets as required at University Center, Room 24. A Student Appeals Board meets regularly during each semester at the same location. The Parking and Transit Services Department (974-6031) may be contacted for appeals information.

(5) Information concerning higher appeals is available for those who wish to pursue the appeals process further.

(6) A staff member or student who receives MORE THAN six (6) citations, paid or unpaid (but not including citations under appeal) in the same academic year may be required to forfeit his or her parking privilege for the remainder of that academic year. Such a violator will be scheduled to appear before an Appeals Board. The Board will make a recommendation to the UT-Traffic and Parking Authority about forfeiture of the parking privilege. A person who parks his or her car on campus after the parking permit has been forfeited may have the car impounded/booted until all citations are paid, including the impoundment/booting fee.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.09 RESTRICTIONS.

(1) University streets or grounds may not be used by any firm, corporation or person for advertising or commercial purposes.

(2) Excessive noise by musical instruments, loudspeakers, faulty mufflers, or muffler cutouts is prohibited on streets within the Campus Area.

(3) Student and staff vehicles are to be removed from designated parking lots by 7:00 a.m. on days when football games are scheduled at Neyland Stadium. Vehicles remaining after 7:00 a.m. will be removed and impounded.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.10 SPECIAL OCCASIONS AND EMERGENCIES. On special occasions - for example: athletic events, concerts, graduation exercises, etc., and in emergencies - parking and traffic limitations may be imposed by UT Police or the Parking and Transit Services Department as required by the conditions which prevail.

Authority: *T.C.A. §49-9-209(e).*

1720-04-5-.11 PEDESTRIAN REGULATIONS.

(1) Students and staff members must not endanger their safety or constitute an unreasonable impediment to lawful vehicular traffic by crossing streets at other than authorized lanes or by willfully walking or congregating in the streets.

(2) All persons will avoid walking across lawns or against traffic signs.

Authority: *T.C.A. §49-9-209(e).*

* 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)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda				x	
Charles C. Anderson, Jr.	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Robert J. Duncan			Non-voting		
J. Brian Ferguson	x				
John N. Foy	x				
Crawford Gallimore	x				
Dr. David Golden			Non-voting		
Vicky B. Gregg	x				
Monice Moore Hagler	x				
Raja J. Jubran	x				
Brad A. Lampley				x	
Bonnie E. Lynch	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Karl A. Schledwitz	x				
Don C. Stansberry, Jr.	x				
Betty Ann Tanner	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				
Dr. Thaddeus A. Wilson	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 06/19/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 06/20/2014

Signature:

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 6-20-14

Notary Public Signature: Lynette Russell

My commission expires on: 1-27-15

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

7-14-14
Date

Department of State Use Only

Filed with the Department of State on: 7/18/14

Effective on: 12/29/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	State Board of Education
DIVISION:	Office of Educator Licensing
SUBJECT:	Name and Address Change
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 49-1-302
EFFECTIVE DATES:	October 20, 2014 to June 30, 2015
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rule amendment requires license holders to notify the Office of Educator Licensing within thirty (30) days if the license holder changes his or her name or address.

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.

Not applicable.

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 will have no impact on local governments.

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For Department of State Use Only

Sequence Number: 07-21-14
Rule ID(s): 5707
File Date: 7/23/14
Effective Date: 12/29/14

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:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	1st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@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**
0520-02-04	Licensure
Rule Number	**Rule Title**
0520-02-04-.01	General Information and Regulations

(3) Change of Name and Address. If the holder of a license or certificate changes his or her name by legal means, the holder must report such changes to the Office of Educator Licensing within thirty (30) days. If the holder of a license or certificate changes his or her permanent address, the holder must report such changes to the Office of Educator Licensing within thirty (30) days.

~~Change of Name. If the holder of a license or certificate changes his or her name by legal means, the holder must report such changes to the Office of Teacher Licensing and Certification.~~

* 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)
Ayers	X				
Edwards	X				
Chancey	X				
Pearre	X				
Roberts	X				
Rogers				X	
Rolston	X				
Sloyan	X				
Wright				X	
Student Member	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 04/11/2014, 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: 6-30-14

Signature: Gary Nixon

Name of Officer: Gary L. Nixon

Title of Officer: Executive Director

PHYLLIS E. CHILDRESS STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

MY COMMISSION EXPIRES: January 9, 2016

Subscribed and sworn to before me on: 6/30/14

Notary Public Signature: Phyllis E. Childress

My commission expires on:

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.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

7-14-14

Date

Department of State Use Only

Filed with the Department of State on: 7/23/14

Effective on: 12/29/14

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION:	Tennessee Wildlife Resources Agency
DIVISION:	Wildlife
SUBJECTS:	Wildlife Management Areas
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 70-1-206 and 70-4-107
EFFECTIVE DATES:	September 29, 2014 through June 30, 2015
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	This rulemaking amends the following rules in the manner described: Rule 1660-01-14-.03(3) is amended by prohibiting the use of alcohol in Yanahli Wildlife Management Area outside of designated camping areas. Rule 1660-01-14.10(1) is amended by adding cranes to the list of species that cannot be concentrated, driven, rallied, or disturbed by means of the aid of water, land, or air conveyance or by any other means. Rule 1660-01-14-.13(1) is amended by removing boar hunts from the list of activities during which unauthorized persons are prohibited from being in a wildlife management area. Rule 1660-01-14-.13(4) is amended by limiting camping on wildlife management areas to no more than three (3) weeks in length from the beginning to the end of the camping stay and by requiring the display of the camper's contact information or TWRA ID number and date of arrival on any camper, tent or vehicle at all times. This rule is also amended to allow houseboats, floats and other water craft to anchor or moor along the shoreline of Chuck Swan and Cove Creek Wildlife Management Areas from the third Thursday of May through the second Tuesday of September.

Rule 1660-01-14-.13(5) is amended by prohibiting horses and other saddle and pack animals at all times on Bridgestone/Firestone Centennial Wilderness, Foothills and Oak Ridge Wildlife Management Areas. This rule is also amended by prohibiting horses and other saddle and pack animals during big game seasons on Cheatham, Laurel Hill, and Yanahli Wildlife Management Areas.

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: 1660-01-14

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.

On Yanahli WMA, this rule prohibits use of alcohol. Use of alcohol in designated camping areas is not prohibited. It also adds cranes to the list of species that cannot be concentrated, driven, rallied, or disturbed by means of the aid of water, land, or air conveyance or by any other means whatsoever. It removes boar from the list of species that unauthorized persons are prohibited from being in the wildlife management area when hunting is taking place. It limits camping on WMAs to not exceed 3 weeks in length from the beginning to the end of the camping stay. The rule allows houseboats, floats and other water craft are permitted to anchor and/or moor along the shoreline of Chuck Swan and Cove Creek WMA's from the third Thursday of May through the second Tuesday of September. This rule prohibits horses and pack animals on Bridgestone Firestone, Oak Ridge and Foothills WMAs, while limiting their activity on Cheatham, Laurel Hill and Yanahli WMAs to time periods other than big game hunts.

(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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Sequence Number: 07-01-14
Rule ID(s): 5749
File Date: 7/1/14
Effective Date: 9/29/14

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:	Wildlife
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**
1660-01-14	Rules and Regulations for Refuges, Wildlife Management Areas, and Public Hunting Areas
Rule Number	**Rule Title**
1660-01-14-.03	Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit 1 and Prentice Cooper Wildlife Management Areas.
1660-01-14-.10	State Operated Wildlife and/or Waterfowl Refuges.
1660-01-14-.13	Hunting and Miscellaneous Uses of Wildlife Management Areas and Other Tennessee Wildlife Resources Agency Controlled Lands.

Chapter 1660-01-14
Rules and Regulations for Refuges,
Wildlife Management Areas and Public Hunting Areas

Amendments

Rule 1660-01-14-.03(3), Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit 1 and Prentice Cooper Wildlife Management Areas, is amended by deleting paragraph (3) in its entirety and inserting new paragraph (3) to read as follows:

~~(3) The use of any alcoholic beverage is prohibited on Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit I, and Prentice Cooper Wildlife Management Areas, except in designated camping areas.~~

(3) The use of any alcoholic beverage is prohibited on Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit 1, Prentice Cooper and Yanahli Wildlife Management Areas, except in designated camping areas.

Authority: T.C.A. §§70-1-206 and 70-4-107.

Administrative History: Original rule certified May 8, 1974. Amendment filed August 2, 1982; effective August 31, 1982. Amendment filed September 26, 1996; effective December 10, 1996. Amendment filed July 19, 2001; effective October 2, 2001. Amendment filed February 27, 2004; effective May 12, 2004.

Amendment

Rule 1660-01-14-.10(1), State Operated Wildlife and/or Waterfowl Refuges, is amended by deleting subparagraph (c) from paragraph (1), in its entirety and inserting a new subparagraph (c) to read as follows:

~~(c) The concentrating, driving, rallying, or disturbance of waterfowl and/or coots by means of the aid of water, land, or air conveyance or by any other means whatsoever is prohibited.~~

(c) The concentrating, driving, rallying, or disturbance of waterfowl, cranes, and/or coots by means of the aid of water, land, or air conveyance or by any other means whatsoever is prohibited.

Authority: T.C.A. §§70-1-206 and 70-4-107.

Administrative History: Original rule filed June 8, 1977; effective July 8, 1977. Amendment filed May 19, 1980; effective July 3, 1980. Amendment filed June 27, 1985; effective July 27, 1985. Amendment filed June 27, 1988; effective August 11, 1988. Amendment filed October 26, 1988; effective December 10, 1988. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed August 29, 1990; effective October 13, 1990. Amendment filed October 21, 1991; effective December 5, 1991. Amendment filed December 14, 1992; effective January 29, 1993. Amendment filed August 9, 1993; effective October 23, 1993.Amendment filed April 4, 1994; effective June 18, 1994. Amendment filed September 26, 1996; effective December 10, 1996. Amendment filed September 30, 1997; effective December 13, 1997. Amendment filed July 19, 2001; effective October 2, 2001.

Amendment

Rule 1660-01-14-.13(1), Hunting and Miscellaneous Uses of Wildlife Management Areas and Other Tennessee Wildlife Resources Agency Controlled Lands, is amended by deleting subparagraph (c) from paragraph (1), in its entirety and inserting a new subparagraph (c) to read as follows:

~~(c) Unauthorized persons are prohibited from being in the wildlife management area during deer, bear, boar and turkey hunts, except on the Cherokee and Land Between the Lakes Wildlife Management Area, or as otherwise specified by rule or proclamation.~~

(c) Unauthorized persons are prohibited from being in the wildlife management area during deer, bear, and turkey hunts, except on the Cherokee and Land Between the Lakes Wildlife Management Areas, or as otherwise specified by rule or proclamation.

Authority: T.C.A. §70-1-206.

Administrative History: Original rule filed July 19, 2001; effective October 2, 2001. Amendment filed June 3, 2008; effective August 17, 2008.

Amendment

Rule 1660-01-14-.13(4), Hunting and Miscellaneous Uses of Wildlife Management Areas and Other Tennessee Wildlife Resources Agency Controlled Lands, is further amended by deleting subparagraphs (b) and (c) from paragraph (4) in their entirety, and inserting new subparagraphs (b) and (c) to read as follows:

~~(b) Overnight camping may be permitted on designated areas by permission from the Area Manager, except on non-Agency lands where legally promulgated rules specify~~

~~otherwise. Such camping is subject to the limitations prescribed in the permit, and shall not exceed 3 weeks in length from the beginning to the end of the camping stay.~~

(b) Overnight camping may be permitted on designated areas by permission from the Area Manager, except on non-Agency lands where legally promulgated rules specify otherwise. Camping shall not exceed 3 weeks in length from the beginning to the end of the camping stay. Owner's contact information (name, phone number, address) or TWRA ID number and date of arrival must be displayed on camper, tent, vehicle, etc., at all times.

~~(c) Houseboats and floats are prohibited from mooring and anchoring overnight along the shorelines of State property on Norris Lake.~~

(c) Houseboats, floats and other watercraft are permitted to anchor and/or moor along the shoreline of Chuck Swan and Cove Creek WMAs from the third Thursday of May through the second Tuesday of September. Houseboats, floats and other watercraft are prohibited from blocking access to coves. In addition, mooring lines cannot be placed to prevent cove access or create a boating hazard. Anchoring and/or mooring shall not exceed 21 consecutive days in length from the beginning to the end of the anchoring and/or mooring stay.

Authority: T.C.A. §70-1-206.

Administrative History: Original rule filed July 19, 2001; effective October 2, 2001. Amendment filed June 3, 2008; effective August 17, 2008.

Amendment

1660-01-14-.13(5), Hunting and Miscellaneous Uses of Wildlife Management Areas and Other Tennessee Wildlife Resources Agency Controlled Lands, is further amended by adding new parts 4. and 5. to subparagraph (j), to read as follows:

(j) 4. Horses and other saddle and pack animals are prohibited at all times on Bridgestone/Firestone Centennial Wilderness, Foothills and Oak Ridge Wildlife Management Areas.

5. Horses and other saddle and pack animals are prohibited during big game seasons on Cheatham, Laurel Hill, and Yanahli Wildlife Management Areas.

Authority: T.C.A. §70-1-206.

Administrative History: Original rule filed July 19, 2001; effective October 2, 2001. Amendment filed June 3, 2008; effective August 17, 2008.

* 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
Jeffrey H. Griggs	✓			
Chad Baker	✓			
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Connie King	✓			
Jeff McMillin	✓			
Tom Rice	✓			
Jim Ripley				✓
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 4/25/2014 and 05/23/2014 (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: 02/14/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 04/25/2014 and 05/23/2014

LISA CRAWFORD
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Date: 6-23-14

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 6-23-14

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

6-26-14
Date

Department of State Use Only

Filed with the Department of State on: 7/1/14

Effective on: 9/29/14

Tre Hargett
Secretary of State

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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION:	Tennessee Professional Soil Scientist Licensing Program
DIVISION:	Regulatory Boards, Department of Commerce and Insurance
SUBJECTS:	Professional Soil Scientist Licensing Program
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 62-18-208, 62-18-211, 62-18-215, and 62-18-219
EFFECTIVE DATES:	October 23, 2014 through June 30, 2015
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rulemaking amends the following rules in the manner described: Rule 0780-05-06.04 (Applications Requirements) is amended to reflect the statutory language in Tenn. Code Ann. § 62-18-208. Rule 0780-05-06-.02 (Definitions) is added to define "inactive" and "retired" license statuses. Rule 0780-05-06-.05 (Renewal Requirements) is added to delineate renewal requirements. Rule 0780-05-06-.06 (Retired or Inactive Status) is added to establish requirements for placing an active license in "inactive" or "retired" status and provides the procedure for reactivating an inactive license. Rule 0780-05-06-.08 (Seals) is added to establish the official form and use of a licensee's seal and the conditions of "responsible charge" necessary for the licensee to properly affix his or her professional seal to documents. Rule 0780-05-06-.09 (Civil Penalties) is added to establish a civil penalty range for each disciplinary offense and guidelines for conditions that may be considered when assessing a civil penalty.

Rule 0780-05-06-.10 (Code of Professional Conduct) is added to establish the standards by which a licensed professional soil scientist is expected to conduct him or herself in the course of his or her professional practice.

Rule 0780-05-06-.11 (Continuing Education) is added to specify the types and amounts of continuing education required of licensees.

Rule 0780-05-06-.12 (Reciprocity) is added to establish the criteria by which the commissioner will grant a license to a person who currently holds a valid, unexpired license as a soil scientist in another recognized jurisdiction.

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 written or oral comments offered 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.

1. Types and estimated number of small businesses directly affected:
These amendments would not impact small businesses because the Program licenses only individuals.

2. Projected reporting, recordkeeping, and other administrative costs:
Small businesses employing professional soil scientists required to be licensed may experience negligible recordkeeping issues, but this is unlikely and any expense would be minimal.

3. Probable effect on small businesses:
There is no expected adverse impact on small businesses as a result of these amendments.

4. Less burdensome, intrusive, or costly alternative methods:
The Program knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:
There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:
There will be no exemptions created by these rules relative to 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 Tennessee Professional Soil Scientist Licensing Program licenses only individuals and foresees no financial impact on any local governments; nor does the Program exercise jurisdiction over local governments.

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For Department of State Use Only

Sequence Number: 07-23-14
Rule ID(s): 5772
File Date: 7/25/14
Effective Date: 10/23/14

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 Professional Soil Scientist Licensing Program
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	Ellery Richardson, Assistant General Counsel
Address:	Professional Soil Scientist Licensing Program 500 James Robertson Parkway, 5th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-3611
Email:	Ellery.Richardson@tn.gov

Revision Type (check all that apply):

X 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**
0780-05-06	Soil Scientists
Rule Number	**Rule Title**
0780-05-06-.02	Definitions
0780-05-06-.04	Application Requirements
0780-05-06-.05	Renewal Requirements
0780-05-06-.06	Retired or Inactive Status Exemptions
0780-05-06-.08	Seals
0780-05-06-.09	Civil Penalties
0780-05-06-.10	Code of Ethics
0780-05-06-.11	Continuing Education
0780-05-06-.12	Reciprocity

Substance of Proposed Rules

Chapter 0780-05-06
Soil Scientists

Amendments

Rule 0780-05-06-.04 Application Requirements is amended by deleting subparagraph (1)(a) in its entirety and substituting instead that following so that, as amended, subparagraph (1)(a) shall read:

0780-05-06.04 Applications Requirements.

(1) Any person who desires to obtain a license as a professional soil scientist shall submit an application to the commissioner, along with the required application fee and all required documentation, including proof that the applicant:

(a) Has graduated from an accredited college or university with a Bachelor of Science degree or higher in soils, agronomy or a closely related field. The applicant shall have successfully completed a minimum of fifteen (15) semester hours of course work in soil science as required by T.C.A. 62-18-208(a)(1);

Authority: T.C.A. §§ 62-18-208 and 62-18-211.

Substance of Proposed Rules

Chapter 0780-05-06
Soil Scientists

New Rules

0780-05-06-.02 Definitions
0780-05-06-.05 Renewal Requirements
0780-05-06-.06 Retired or Inactive Status Exemptions
0780-05-06-.08 Seals
0780-05-06-.09 Civil Penalties
0780-05-06-.10 Code of ~~Professional Conduct~~ Ethics
0780-05-06-.11 Continuing Education
0780-05-06-.12 Reciprocity

0780-05-06-.02 Definitions.

~~Reserved.~~ Definitions for this chapter shall be as follows:

(1) "Inactive" means a professional soil scientist who has obtained inactive status from the commissioner and is not required to comply with continuing education requirements as prescribed herein. A professional soil scientist in inactive status may not engage in the practice of soil science;

(2) "Retired" means a professional soil scientist who has obtained retired status from the commissioner and is not required to comply with continuing education or renewal requirements or pay renewal fees as prescribed herein. A retired professional soil scientist may not engage in the practice of soil science and a license in retired status may not be reactivated.

Authority: T.C.A. § 62-18-211.

0780-05-06-.05 Renewal Requirements.

~~Reserved.~~

(1) A professional soil scientist license issued pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on that date unless renewed.
(2) In order to renew his or her license, a licensee shall submit a renewal application with the

appropriate renewal fee and any other prerequisites for renewal.

(3) A licensee who fails to pay the renewal fee or fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have six (6) months after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of twenty-five dollars ($25.00) for each month or fraction of a month that renewal is late, and submission of proof of compliance with any other prerequisites to renewal.

(4) Any person seeking renewal of a license more than six (6) months after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure.

Authority: T.C.A. § 62-18-211.

0780-05-06-.06 Retired or Inactive Status Exemptions.

~~Reserved.~~

(1) A licensee may request to place his or her license in inactive or retired status by:

(a) Submitting a written request to place his or her license in inactive or retired status to the commissioner; and

(b) Paying an inactive or retirement fee.

(2) A licensee may request to have his or her license reinstated after it has been placed in inactive status by:

(a) Submitting a written request to have his or her license returned to active status;

(b) Paying a reinstatement fee; and

(c) Submitting evidence satisfactory to the commissioner that the licensee has completed twelve (12) hours of continuing education in the two (2) years immediately preceding the date of the request for reinstatement.

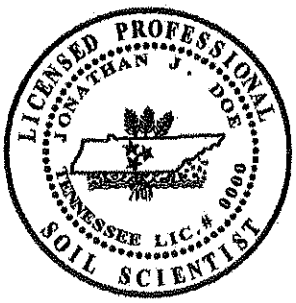
(3) A retired professional soil scientist may not engage in the practice of soil science and a license in retired status may not be reinstated.

Authority: T.C.A. § 62-18-211.

0780-05-06-.08 Seals.

~~Reserved.~~

(1) The design of a licensee's seal required by T.C.A. §62-18-211(2) shall be two inches in diameter and, regardless of whether it is applied to documentation through physical or electronic means, shall appear as follows:



(2) The licensee shall affix his or her seal to all original sheets of any bound or unbound plans, plats, drawings, reports or other soil scientist papers or documents involving soil science work developed by the licensee or under the licensee's responsible charge of work.

(3) The licensee shall superimpose his or her signature and date of signature across the face and beyond the circumference of the seal on the documents listed in subsection (2) above.

(4) Any portions of plans, plats, drawings, reports, or other soil science papers or documents involving soil science work prepared in part by a licensee operating as a consultant on a project shall place his or her signature on the pages of the document for which the licensee is responsible.

(5) No licensee shall affix his or her seal or signature to plans, plats, drawings, reports or other soil science papers or documents developed by others not under the licensee's responsible charge of work as defined by T.C.A. §62-18-203(6).

(6) Responsible Charge of Work.

(a) Plans, plats, drawings, reports or other soil science papers or documents involving soil science work prepared in part or in whole by a licensee or the licensee's subordinate will be deemed to have been prepared under the responsible charge of the licensee only when:

1. The client or employer requesting preparation of plans, plats, drawings, reports or other soil science papers or documents makes the request directly to the licensee or to the licensee's subordinate at the time initial client or employer contact is made, so long as the licensee has the right to control and direct the subordinate in the material detail of how the work is to be performed;

2. The licensee supervises and is involved in the preparation and approval of the plans, plats, drawing, reports or other soil science papers or documents and has input into and full knowledge of their preparation prior to their completion;

3. The licensee reviews the final plans, plats, drawings, reports or other soil science papers or documents; and

4. The licensee has the authority to, and does, make any necessary and appropriate changes to the final plans, plats, drawings, reports or other soil science papers or documents.

(b) Any changes made to the final plans, plats, drawings, reports or other soil science papers or documents after final revision and sealing by the licensee are prohibited by any person other than the licensee.

(c) The mere review of work prepared by another person, even if that person is the licensee's subordinate, does not constitute responsible charge of work unless the licensee has met the criteria set out above.

Authority: T.C.A. § 62-18-211.

0780-05-06-.09 Civil Penalties.

~~Reserved.~~

(1) With respect to any licensed professional soil scientist, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against a licensee for each separate violation of a statute, rule, or commissioner's order pertaining to licensed professional soil scientists, in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. §62-18-207	$100 - $1,000
(b) T.C.A. §62-18-217	$100 - $1,000
(c) Rule 0780-05-06-.08	$100 - $1,000
(d) Rule 0780-05-06-.10	$100 - $1,000
(e) Commissioner's order	$100 - $1,000

(2) With respect to any other person required to be licensed in this state as a licensed professional soil scientist, the commissioner may assess a civil penalty against such person for each separate violation of statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. §62-18-204	$100 - $1,000

(3) Each day of continued violation may constitute a separate violation.

(4) In determining the amount of any civil penalty to be assessed pursuant to this rule, the commissioner may consider factors including, but not limited to, the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk of harm to public;

(d) The economic benefits gained by the violator as a result of noncompliance; and

(e) The interest of the public.

Authority: T.C.A. §§ 62-18-211 and 62-18-219.

0780-05-06-.10 Code of ~~Professional Conduct~~ Ethics.

~~Reserved.~~

(1) Licensees shall uphold the public health, safety and welfare in the performance of professional services.

(2) Licensees shall observe and comply with all federal, state and local building, fire, safety, real estate, or mining codes, as well as other laws, codes, ordinances, or regulations pertaining to the practice of soil science.

(3) Licensees shall not undertake any type of work that he or she is not competent to undertake unless the licensee discloses his or her lack of training, experience, or education in writing to all appropriate parties prior to undertaking the work.

(4) Licensees shall not affix their signatures and/or seal any plans, plats, drawings, reports, or other soil science papers or documents with subject matter in which they lack competence acquired through education or experience, nor shall licensees affix their signatures and/or seal plans, plats, drawings, reports or other soil science papers or documents that were not prepared or reviewed by the licensee or the licensee's subordinate and approved by the licensee.

(5) Opinions expressed by licensees for any purpose in the course of his or her professional practice shall only be based on their education and experience.

(6) Licensees shall not disclose any information about the lawful business affairs or technical processes of a client or employer without the approval of the client or employer, or the

client's/employer's designated representative, unless required by subpoena or in response to a complaint filed by the commissioner.

(7) Licensees shall not participate in any illegal activities, or knowingly permit the publication of his or her plans, plats, drawings, reports, or other soil science papers or documents for illegal purposes.

(8) Licensees shall not issue false or misleading information or statements to a client.

(9) No licensee shall accept compensation or any other consideration from more than one (1) interested party for the same service without the written consent of all interested parties.

(10) No licensee shall accept or offer commissions or allowances, directly or indirectly, from third parties dealing with the client or employer in connection with work for which the licensee is in responsible charge.

(11) Before the execution of a contract to perform soil science services, a licensee shall disclose to the client or employer any actual or potential conflicts of interest that might affect the licensee's ability to serve the client or employer.

(12) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

(13) Licensees shall respond to all of the commissioner's written requests for information within the time frame specified on the written request.

Authority: T.C.A. §§ 62-18-211 and 62-18-215.

0780-05-06-.11 Continuing Education.

~~Reserved.~~

(1) "Continuing education hours" means an hour consisting of not less than fifty (50) minutes of instruction or presentation acceptable to the commissioner or as otherwise noted in this rule. Continuing education hours received through post-secondary education institutions will be awarded according to the following table:

(a) One (1) university semester hour of credit..... 15 continuing education hours

(b) One (1) university quarter hour of credit.....10 continuing education hours

(2) A licensee seeking regular biennial renewal shall, as a prerequisite for renewal, show that he or she has completed no less than twelve (12) hours of continuing education during the two (2)-year period immediately preceding renewal.

(3) One (1) of the twelve (12) continuing education hours each licensee obtains for renewal shall be in ethics.

(4) Activities eligible for continuing education hours include:

(a) Professional meetings (no maximum), including short courses, workshops, clinics, conferences, symposia, seminars, field days, scientific presentations and distance education.

(b) Self-directed study, including reading of scientific journals and books with a 2,500-word professional article equaling one continuing education hour. Self-directed study may account for a maximum of three (3) continuing education hours per two (2)-year period.

(c) Soil science-related community service (2 continuing education hours maximum per renewal period), including serving on committees and community service related to the profession of soil science. Such service shall be deemed to be equal to two (2)

continuing education hours per two (2)-year period.

(d) Authoring or preparation of educational materials; this credit may be claimed only on the renewal period on which the educational materials are initially prepared and/or presented. Such work shall be deemed to be equal to two (2) continuing education hours per two (2)-year period.

(5) Each licensee shall, when making application for renewal, submit on the prescribed form a signed statement setting forth the number of continuing education hours that he or she has completed during the reporting period. Licensees shall retain documentation evidencing their continuing education hours for at least five (5) years subsequent to the date of submission.

(6) The commissioner may verify information licensees submit under this rule at the commissioner's discretion upon written notice to the licensee.

(7) If any continuing education hours claimed in a statement submitted by a licensee pursuant to paragraph (5) of this rule are disapproved, the commissioner shall notify the licensee of the reason for disapproval. The commissioner may allow a specified period of time, up to six (6) months, for correction of the deficiencies noted.

Authority: T.C.A. § 62-18-211.

0780-05-06-.12 Reciprocity.

~~Reserved.~~

Pursuant to T.C.A. § 62-18-212, the commissioner may grant a license as a professional soil scientist to an individual who holds a like, unexpired license as a professional soil scientist issued by another state, territory, or possession of the United States, the District of Columbia, or any foreign country if such jurisdiction's examination and requirements for licensure are of a standard substantially equal to those required by the commissioner for initial licensure in Tennessee. Such applicant shall file with the commissioner the required application and fee, along with proof that the applicant holds a current, valid license as a professional soil scientist and the requirements necessary for obtaining such license.

Authority: T.C.A. § 62-18-211.

* 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 Commissioner of Commerce and Insurance on behalf of the Tennessee Professional Soil Scientist Program on 10/29/2013, 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: 08/29/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 10/29/2013

Date: 6-23-14

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Tennessee Department 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: 6-23-14

Notary Public Signature: Denise M Lewis

My commission expires on: 2/15/2016

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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

7-15-14

Date

Department of State Use Only

Filed with the Department of State on: 7/25/14

Effective on: 10/23/14

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED 2014 JUL 25 PM 4:21 OFFICE OF SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Labor and Workforce Development
DIVISION:	Workers' Compensation
SUBJECT:	Medical Advisory Committee
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 50-6-135 (Sections 24 and 106 of Public Chapter No. 289, Public Acts 2013)
EFFECTIVE DATE:	September 30, 2014 through June 30, 2015
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	Public Chapter 289 of the Public Acts of 2013 created the medical advisory committee. These rules provide the requirements for each meeting, the procedures under which the administrator will appoint qualified persons, the terms appointees will serve, and specifies the represented professions that the membership of the committee may include.

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 COMMENTS AND RESPONSES

Comment: Add "appropriate" to line two of rule 0800-02-23-.01 just before the word "affective". Additionally, substitute "effective" for the word "efficient" in line 5 of the rule. These changes will better reflect the mission of the medical advisory committee.

Response: The Division agrees and has altered the rules in the manner suggested by the comment.

Comment: Substitute "professionals" for "physicians" and delete the word "medical" from rule 0800-02-23-.02(2). This change is necessary to recognize the difference nature of the specialties that may be represented on the committee.

Response: The Division agrees and has altered the rules in the manner suggested by the comment.

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: These rules provide the procedures for the appointment and composition of an advisory committee, These rules will not impact costs for any business.

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 provide the procedures under which qualified persons will be appointed to an advisory committee. The rules do not require any business to keep or maintain records .

3. A statement of the probable effect on impacted small businesses and consumers: These rules provide the procedures under which qualified persons will be appointed to an advisory committee. The rules do not require any record keeping on the part of any small business.

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 these rules.

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: These rules provide the procedures under which qualified persons will be appointed to an advisory committee. The rules do not require a small business to take any action. Accordingly, exempting small business from the rule requirements would have no 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)

These rules will not affect local governments.

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Sequence Number: 07-02-14
Rule ID(s): 5750
File Date: 7/2/14
Effective Date: 9/30/14

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 Labor and Workforce Development
Division:	Workers' Compensation
Contact Person:	Josh Baker
Address:	220 French Landing Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 253-6909
Email:	Josh.baker@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)
New Rules

Chapter Number	**Chapter Title**
0800-02-23	Medical Advisory Committee
Rule Number	**Rule Title**
0800-02-23-.01	Purpose and Scope
0800-02-23-.02	Appointing of Members and Composition of Committee
0800-02-23-.03	Terms
0800-02-23-.04	Meetings
0800-02-23-.05	Committee Leadership and Subcommittees

(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)

Chapter 0800-02-23
Medical Advisory Committee

New Rules

Rule 0800-02-23.-01 Purpose and Scope

The administrator's medical advisory committee serves to provide guidance to the administrator on issues related to the effective and efficient treatment of injured workers as well as the proper source of reference for determining permanent impairment ratings so that the administrator can provide leadership to the division and its various programs in advancing the goal of ensuring that all injured workers receive the best and most cost effective treatment possible to facilitate a meaningful recovery from injury and swift return to the workforce.

Authority: Public Chapter 289 (2013); Sections 24, 106

Rule 0800-02-23-.02 Appointing of Members and Composition of Committee

(1) The administrator will make appointments to the committee of persons meeting the requirements of Tennessee Workers' Compensation law and will establish a maximum number of committee members.

(2) In addition to representatives of employees, employers and the insurance industry, the membership of the committee may include professionals who practice in the following specialties:

(a) Orthopedics;
(b) Physical medicine;
(c) Neurosurgery;
(d) Psychiatry;
(e) Occupational Medicine;
(f) General Surgery;
(g) Chiropractic; and
(h) Pharmacy.

(3) The commissioner of the department of health, or the commissioner's designee, shall be a member of the committee.

(4) The medical director and any assistant medical director(s) shall also serve as ex-officio, non-voting member(s) of the committee.

Authority: Public Chapter 289 (2013); Sections 24, 106

Rule 0800-02-23-.03 Terms

(1) Except as provided in subsection (4), the terms of all committee members shall officially begin on January 1 of the year of appointment and expire, four (4) years later, on December 31.

(2) Committee members may be reappointed by the administrator upon expiration of a term and are not term limited.

(3) A committee member appointed shall begin service of their term immediately.

(4) The medical director and any assistant medical director(s) shall begin service immediately upon acceptance of the position of medical director or assistant medical director and shall continue until employment as the medical director or assistant medical director(s) ends.

Authority: Public Chapter 289 (2013); Sections 24, 106

Rule 0800-02-23-.04 Meetings

(1) The medical advisory committee shall meet at the discretion of the administrator.

(2) Meetings shall be held in a central location but members shall be allowed to participate by phone or by videoconference with approval of the administrator.

(3) Members who participate by phone or by videoconference shall be counted as physically present for the purpose of establishing a quorum of members for the transaction of business. A quorum shall be established at any time where one-third (1/3) of all committee members are present. Participation by proxy of a voting member shall be allowed for establishing a quorum but only with the express permission of the administrator.

(4) The committee shall keep minutes of its meetings which the Division shall post on its website.

Authority: Public Chapter 289 (2013); Sections 24, 106

Rule 0800-02-23-.05 Committee Leadership and Subcommittees

(1) The committee shall have authority to select leadership including a chairperson, co-chairperson, secretary and any other leadership position the committee deems necessary for the transaction of business.

(2) The committee shall consult with the administrator in selecting leaders.

(3) The administrator may establish subcommittees as necessary to advance committee goals.

(4) There shall be no requirement that any subcommittee established by the administrator keep minutes of subcommittee meetings.

Authority: Public Chapter 289 (2013); Sections 24, 106

* 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 Division of Workers' Compensation (board/commission/ other authority) on January 10, 2014, 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: *December 26, 2013*

Rulemaking Hearing(s) Conducted on: (add more dates). *January 24, 2014*

Date: March 10, 2014

Signature: Abbie Hudgens

Name of Officer: Abbie Hudgens

Title of Officer: Administrator, Division of Workers' Compensation

SHARA HAMLETT STATE OF TENNESSEE NOTARY PUBLIC WILLIAMSON COUNTY

Subscribed and sworn to before me on: March 14, 2014

Notary Public Signature: Shara Hamlett

My commission expires on: January 24, 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.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

6-26-14
Date

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Filed with the Department of State on: 7/2/14

Effective on: 9/30/14

Tre Hargett

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Commerce and Insurance
DIVISION:	Peace Officer Standards and Training
SUBJECT:	Peace Officer Certification and In-Service Requirements
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 38-8-101, 38-8-104, 38-8-105, 38-8-106, 38-8-107, 38-8-111, and the Americans with Disabilities Act (ADA), 42 United States Code 12101, et seq.
EFFECTIVE DATES:	October 22, 2014 through June 30, 2105
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	The proposed amendment incorporates applicable provisions of the Americans with Disabilities Act and requires drug interdiction agents, drug task force officers, and directors attend a specialized training regarding highway drug interdiction prior to or within six (6) months of appointment.

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.

No public comments were made during or submitted for the 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.

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to affect 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 rules will not impact any 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.

There will be no additional reporting, recordkeeping or other administrative costs resulting from these rules than is currently required by the existing rules.

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

The rules will have no effect on small businesses and consumers.

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

Since the rules will not impact small businesses, a less burdensome, intrusive or costly alternative method has not been identified or recommended for use.

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

The rules are based on Public Chapter 137 of the 2013 Acts which was based on 42 U.S. Code 12101, et seq. (Americans with Disabilities Act- ADA).

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

There are no exemptions for small businesses to the requirements contained in the 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)

(Insert statement here)

The rules may impact local governments.

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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 Commerce and Insurance
Division: Tennessee Peace Officer Standards and Training
Contact Person: Joseph Underwood, Chief Counsel of Fire Prevention & Law Enforcement
Address: 500 James Robertson Parkway, 8th Floor, Davy Crockett Tower
Zip: 37243
Phone: 615-741-3899
Email: Joseph.Underwood@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**
1110-02	Certification
Rule Number	**Rule Title**
1110-02-.03	Law Enforcement Officer Certification Requirements

Chapter Number	**Chapter Title**
1110-04	In-service Training Requirements
Rule Number	**Rule Title**
1110-04-.09	Approval of Specialized Schools

Chapter Number	**Chapter Title**
1110-08	Part-Time/Temporary/Auxiliary Law Enforcement Officers
Rule Number	**Rule Title**
1110-08-.02	Preemployment Requirements

Chapter Number	**Chapter Title**
1110-09	Criteria for Waivers
Rule Number	**Rule Title**
1110-09-.04	Waiver of Preemployment Requirements

RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS AND TRAINING COMMISSION

CHAPTER 1110-02
CERTIFICATION

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1110-02-.03 Law Enforcement Officer Certification Requirements
1110-02-.04 Denial, Suspension, and Revocation of Certification

1110-02-.03 LAW ENFORCEMENT OFFICER CERTIFICATION REQUIREMENTS. All full-time commissioned law enforcement officers employed by an agency required to meet minimum standards must meet pre-employment requirements and, upon completion of the required basic training, will be issued a POST Certification.

(1) Full-time Commissioned Law Enforcement Officer Pre-employment Requirements. The Commission shall issue a certificate of compliance to any person who meets the qualifications for employment and satisfactorily completes a POST certified Basic Law Enforcement Training Academy. All persons employed as a full-time law enforcement officer, after July 1, 1982, must be certified by POST and shall comply with the following pre-employment requirements:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States;

(c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;

(d) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages or controlled substances;

(e) The agency must present a copy of any DD-214s, DD-215s and DD873s along with the application for certification.

1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages or controlled substances when the offense was classed as a misdemeanor.

2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.

3. No waiver will be granted for a narcotics violation that could result in a felony charge.

4. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.

(f) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;

(g) Have his fingerprints on file with the Tennessee Bureau of Investigation;

(h) Have passed a physical examination by a licensed physician;

(i) Have good moral character as determined by a thorough investigation conducted by the employing agency; and/or the POST Commission

(j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any ~~disorder~~impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, ~~impair~~ affect the ~~subject's~~ person's ability to perform ~~any~~ an essential function of the job, with or without a reasonable accommodation.

~~1. No waiver will be granted for mental disorders.~~

~~2.~~1. A new evaluation shall be required:

~~a.~~ (i) after a six (6) month break in full-time law enforcement service~~;~~, or,

~~b.~~ (ii) upon the request of the employing agency, for good cause.

2. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

(k) Not have been previously decertified as a law enforcement officer by the POST Commission.

(l) Not have previously voluntarily surrendered their certification as a law enforcement officer.

(2) Training Requirements. Any officer seeking certification under these rules who conforms to pre-employment requirements shall, within six months of initial employment as a law enforcement officer, satisfactorily complete the Basic Law Enforcement Course as established in accordance with these rules. During this initial six-month period prior to attending the Basic Law Enforcement Course, the recruit must be paired with a Field Training Officer or other certified senior officer.

Commencing July 1, 1982, any time served as a full-time commissioned law enforcement officer in any Tennessee law enforcement agency is accumulative and will count as part of the six-month time limit.

(3) Application Requirement. No officer shall be certified under these rules unless application is made at such time and in such form as the Commission may require (T.C.A. § 38-8-104).

If after enrolling in an academy an officer does not successfully complete basic police training, he/she must return to the same academy under the following circumstances:

(a) to make up any portion not successfully completed.

(b) if dropped for academic or disciplinary reason.

(c) in the event an officer fails to successfully complete basic police training after returning for makeup he/she must retake the entire school.

(4) Verification Requirement. No officer shall be certified under these rules unless (T.C.A. § 38-8-104):

(a) The law enforcement agency employing said officer when the Basic Law Enforcement Course is begun shall submit, at such time and in such form as the Commission may require, verification that the officer (at the time the officer was employed) met the pre-employment requirements set forth in this chapter.

(b) The Director of the Academy where said officer satisfactorily completed Basic Law Enforcement School, established in accordance with these rules, shall submit verification, in such form as the Commission may require, that the officer has met the Basic Training requirements set forth in this chapter.

(c) The Commission may certify any person who has received training in another state when the Commission has determined that such training was at least equivalent to that required by the Commission for approved law enforcement education and training programs in this state and when such person has satisfactorily complied with all other requirements (T.C.A. § 38-8-107). Established criteria shall be that which governs the requirements set forth for completion of the Basic Law Enforcement Recruit School, as outlined in Chapter 7 of POST Rules.

1. Beginning July 1, 2010, any person whose basic training from another state has been substituted for Tennessee requirements must successfully attend the POST's three (3) week transition school within six (6) months of employment.

(5) Substitution of Experience for exempt/exempted officers. No officer shall be certified under these rules unless:

(a) The law enforcement agency employing said officer shall submit an Application for Certification, Confirmation of Psychological Examination, and Confirmation of Physical Examination, to verify that all preemployment requirements have been met.

(b) Beginning July 1, 2010, any person applying for substitution of experience must successfully attend the POST's three (3) week transition school within six (6) months of employment.

(6) Break in Full-Time Law Enforcement Service.

(a) Beginning July 1, 2010, certified officers who have had a five-year break, but less than a ten-year break in full-time law enforcement service must successfully attend the POST's three (3) week transition school within six (6) months of employment before their certification is reinstated. Officers with over a ten-year break in full-time law enforcement service shall be required to attend a Basic Law Enforcement Academy.

(b) Beginning July 1, 2010, officers who were certified under the Grandfather Clause of July 1, 1970, and have attended an approved basic law enforcement school, must successfully attend the POST's three (3) week transition school within six (6) months of employment if they have a five-year break in full-time service.

(c) Officers who were certified under the Grandfather Clause of July 1, 1970, and have not attended an approved basic law enforcement school, lose their grandfathered status if they have a break in service. However, these officers may apply for certification if they have had ten (10) years of full-time experience since July 1, 1970, and have had no longer than a five-year break in service. Beginning July 1, 2010, they are required to successfully attend the POST's three (3) week transition school within six (6) months of employment.

These officers may separate directly from one law enforcement agency and be employed as a full-time law enforcement officer by another law enforcement agency with no loss of certification as long as there is no break in service.

(d) Beginning July 1, 2010, officers who have attended an approved basic law enforcement school and who were not required to be certified at that time, may apply for certification based on this training within two (2) years of the date of completion of the basic law enforcement school. These officers must successfully attend the POST's three (3) week transition school within six (6) months of employment to qualify for certification after two (2) years and less than ten (10) years from the date of completion of the basic law enforcement school. Officers with over a ten-year break from the date of completion of the basic law enforcement school shall be required to attend a Basic Law Enforcement Academy.

(e) An officer's certification expires after separation of full-time employment from a law enforcement agency. A new application for certification is required for each new employment as a law enforcement officer.

Authority: *T.C.A. §§38-8-104, 38-8-105, 38-8-106, 38-8-107, 38-8-111, and 38-8-111(f).* ***Administrative History:*** *Original rule filed December 20, 1982; effective January 19, 1983. Amendment filed January 28, 1986; effective April 15, 1986. Amendment filed September 17, 1987; effective December 29, 1987. Amendment filed January 6, 1989; effective May, 1, 1989. Amendment filed November 13, 1989; effective February 28, 1990. Amendment filed August 4, 1992; effective November 29, 1992. Amendment filed October 25, 1993; effective March 1, 1994. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 2, 2006; effective February 28, 2007. Amendment filed March 18, 2010; effective June 16, 2010. Amendments filed March 11, 2011; effective June 9, 2011.*

RULES OF
THE TENNESSEE PEACE OFFICER
STANDARDS AND TRAINING COMMISSION

CHAPTER 1110-08
PART-TIME/TEMPORARY/AUXILIARY LAW ENFORCEMENT OFFICERS

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1110-8-.03	Training Requirements	1110-8-.06	Audit

1110-8-.01 DEFINITIONS.

(1) Part-time/Temporary/Reserve/Auxiliary Law Enforcement Officer is defined as any person employed by any municipality or any political subdivision of the state of Tennessee whose primary responsibility is to support the full-time law enforcement officers in the prevention and detection of crime, apprehension of offenders, assisting in the prosecution of offenders for appropriate remuneration in measure with specifically assigned duties and/or job description. Part-time law enforcement officers will work no more than twenty (20) hours per week or a total of no more than one hundred hours per month. Any law enforcement officer who works in excess of the maximum hours as specified herein will be reclassified to a full-time status and must meet all requirements for standards/training as mandated under the law and Peace Officer Standards and Training Commission rules.

Provided however, in any situation where an officer is temporarily assigned for a period of one (1) month or less, to work more than twenty (20) hours per week or a total of more than one hundred (100) hours per month, such officer shall not be reclassified to a full-time status.

(2) Special Deputy is defined within this section as any person who is assigned specific law enforcement functions as to the prevention and detection of crime and general laws of this state on a volunteer basis, whether working alone or with other law enforcement officers. Any law enforcement officer working on a volunteer basis shall receive no pay or benefits except for honorariums and may be utilized for an unlimited number of hours.

Authority: *T.C.A. § 38-8-101.* ***Administrative History:*** *Original rule filed January 6, 1989; effective May 1, 1989. Amendment filed April 19, 2002; effective August 28, 2002.*

1110-08-.02 PRE-EMPLOYMENT REQUIREMENTS.

(1) After January 1, 1989, any person employed/utilized as part-time/temporary/reserve/auxiliary law enforcement officer or as a special deputy shall:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen of the United States;

(c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;

(d) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances;

(Rule 1110-08-.06, continued)

1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, or entered a plea of nolo contendere to any violation of any federal or state laws or city ordinances (excluding felony charges) relating to force, violence, theft, dishonesty, gambling, liquor (including driving while intoxicated), or controlled substances when the offense was classed as a misdemeanor.

2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.

3. A person who has had misdemeanor charges expunged may be considered for certification. It is the responsibility of the officer and employing agency to present information and court documents relating to expungement to the Commission.

4. No waiver will be granted for felony convictions or a narcotics violation that could result in a felony charge.

5. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.

(e) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;

(f) Have his fingerprints on file with the Tennessee Bureau of Investigation;

(g) Have passed a physical examination by a licensed physician;

(h) Have good moral character as determined by a thorough investigation conducted by the employing agency; and

~~(i)~~ Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any ~~disorder~~impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination ~~DSM~~, that would, in the professional judgment of the examiner, ~~impair~~ affect the ~~subject's~~ person's ability to perform ~~any~~ an essential function of the job, with or without a reasonable accommodation. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

~~(j)~~

~~1. No waiver will be granted for mental disorders.~~

(2) Part-time/temporary/reserve/auxiliary law enforcement officers and special deputies who were employed prior to January 1, 1989 and have had continuous service are exempt from pre-employment requirements as long as they remain on active service with the department by which they are originally employed. Any part-time/temporary/reserve/auxiliary law enforcement officer or special deputy who has a break in service of any length whatsoever will be required to meet pre-employment and training standards.

Authority: *T.C.A. §§ 38-8-101 and 38-8-106.* ***Administrative History:*** *Original rule filed January 6, 1989; effective May 1, 1989. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 2, 2006; effective February 28, 2007.*

RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS AND TRAINING COMMISSION

CHAPTER 1110-04
IN-SERVICE TRAINING REQUIREMENTS

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1110-04-.10 Waivers of In-service Training
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1110-04-.09 APPROVAL OF SPECIALIZED SCHOOLS.

(1) If an officer attends a specialized school appropriate to his/her rank and responsibility, the eligibility of the school must be approved by the Commission. Only schools of a law enforcement related nature will be considered for in-service credit toward meeting the forty (40) hour training requirement. A curriculum of each school and proof of successful completion by the individual attendee is required. The specialized substitution form along with a copy of the Certificate, a copy of the schedule and, if no test is given, a critique from the Attending Officer to his of her supervisor must be submitted to POST two (2) weeks after the completion of the school.

(2) If no test is administered, the attending officer should submit to his superior officer a detailed evaluation of the course. If satisfied that the training was valid and beneficial, the superior officer should submit a statement to that effect, along with a copy of the report, to the Commission. In-service credit requests will be reviewed on an outlined in 1110-04-.02.

(3) In some instances, the specialized training session may be combined with the regularly scheduled and POST approved 40 hour in-service training sessions. If this is done, the attending officer must be tested on those hours attended in the departmental 40 hour course. This will necessitate the local General Department Instructor being responsible for identifying the appropriate questions involved in the POST testing instrument.

(4) Any officer moving to a specialized assignment involving the use of a specialized emergency conveyance shall receive sufficient training to meet the job requirements. Specialized emergency conveyance includes, but is not limited to, motorcycle, bicycle, horse.

(5) Any officer being promoted into a leadership position shall, within six (6) months of promotion, receive sufficient training to meet the job requirements. The training shall include courses in: leadership and team building; first line supervisor training; and mid-level management.

(6) All newly appointed chiefs shall, prior to or within six (6) months of appointment, complete a command level course of instruction at least thirty two (32) hours in duration approved by the Commission for Police Chiefs that includes command, management and administration components, specific to law enforcement. The hours of this course may be counted toward the required forty (40) hours of in-service training the year the course is completed.

(7) All full time law enforcement officers, who are assigned to interdiction activities on the streets, roads, highways or interstates of Tennessee, must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.

(a) The hours of this course may be credited toward the forty (40) hour in-service

requirement for the year the course is completed.

(b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

(8) All full time law enforcement officers, who seize assets for purposes of forfeiture or apply for forfeiture warrants with regards to assets seized or impounded, pursuant to the Tennessee Drug Control Act of 1989, as amended, on the portions of any highway designated and known as part of the national system of interstate and defense highways ("interstate") must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.

(a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.

(b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

(9) All newly appointed drug interdiction or drug task force directors shall, prior to or within six (6) months of appointment, complete a thirty-two (32) hour command level course of instruction approved by POST. The six (6) month requirement will be counted cumulatively, not consecutively. The hours of this course may count toward the required forty (40) hours of in-service training for the year the course is completed.

Authority: *T.C.A. §§ 38-8-104, 38-8-107 and 38-8-111.* ***Administrative History:*** *Original rule filed December 20, 1982; effective January 19, 1983. Amendment filed January 6, 1989; effective May 1, 1989. Amendment filed August 4, 1992; effective November 29, 1992. Amendment filed October 25, 1993; effective March 1,1994. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 2, 2006; effective December 16, 2006. Amendment filed October 2, 2006; effective February 28, 2007. Amendment filed March 18, 2010; effective June 16, 2010.*

RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS

CHAPTER 1110-09
CRITERIA FOR WAIVERS

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1110-09-.04 WAIVER OF PREEMPLOYMENT REQUIREMENTS. A waiver of preemployment requirements may be granted under the following circumstances:

(1) No person may be employed as a law enforcement officer, who requires a waiver under this section, until such waiver is granted. "Any person who shall appoint any applicant, who, to the knowledge of the appointee, fails to meet the minimum standards as set forth herein or required by the Commission, and any person who signs the warrant or check for the payment of the salary of any person who, to the knowledge of the signer, fails to meet the qualifications as a law enforcement officer as provided herein or required by the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding one thousand dollars ($1,000)".

(a) Military History - The Commission may waive preemployement requirements relating to the military history on an individual basis and depending on the circumstances.

1. Waivers may be granted from preemployment requirements for the following separations from military service:

(i) an Entry Level Separation

(ii) a General Discharge under Honorable Conditions.

2. Waivers will not be granted from preemployment requirements for the following separation from military service:

(i) Dishonorable Discharge

(ii) Bad Conduct Discharge

(iii) Other Than Honorable Discharge

(b) Criminal Activity - The Commission may consider a waiver from preemployment requirements relating to criminal activity on an individual basis and depending on the circumstances.

1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state law or city ordinance (excluding domestic violence) with the following charges:

(i) relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages;

(ii) or controlled substances, as defined in the Tennessee Drug Control Act

compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.

2. The employing agency requesting waiver must present a copy of the final court disposition of the case.

3. Some of the factors to be considered when determining whether to grant a waiver shall be:

   (i) the amount of time since the offense;

   (ii) the amount of time since completion of the sentence;

   (iii) the type, circumstances and severity of the offense;

   (iv) the applicant's activities since the offense; and

   (v) the applicant's ability to carry a fire arm pursuant to federal and state law.

(c) Mental ~~Disorder~~ Impairment- A waiver ~~will~~ shall not be granted from preemployment requirements ~~relating to~~for a mental ~~disorder~~impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

(d) Education - A waiver will not be granted from preemployment requirements relating to minimum education requirements.

(e) Previous decertification or voluntary surrender of certification as a law enforcement officer – The Commission may waive preemployment requirements relating to previous decertification or voluntary surrender of certification as a law enforcement officer on an individual basis and depending on the circumstances.

1. Some of the factors to be considered when determining whether to grant a waiver shall be:

   (i) the circumstances surrounding and which lead to the previous decertification or voluntary surrender of certification as a law enforcement officer;

   (ii) the amount of time since the previous decertification or voluntary surrender of certification as a law enforcement officer;

   (iii) the applicant's activities since the offense; and

   (iv) the applicant's ability to carry a fire arm pursuant to federal and state law

Authority: *T.C.A. §§38-8-104, 38-8-105, and 38-8-106.* ***Administrative History:*** *Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 6, 2006; effective February 28, 2007. Amendments filed March 18, 2010; effective June 16, 2010. Amendments filed March 11, 2011; effective June 9, 2011.*

* 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)
Glenn Chrisman	X				
Ric Wilson	X				
Glen Donoho				X	
Gerald Fanion	X				
Carl Jenkins				X	
Jeff Lewis	X				
Jeff Long	X				
Brent Cherry				X	
Rita Baker	X				
David Bennett	X				
Franklin Lax	X				
Robert Rhoades	X				
James Wheeler				X	
Bobby Williamson	X				
Kim Wallace				X	
Mike Bell					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Peace Officer Standards and Training (POST) Commission on 03/21/2014 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: *01/28/2014*

Rulemaking Hearing(s) Conducted on: (add more dates). *03/21/2014*

Date: 7/9/2014

Signature:

Name of Officer: Joseph Underwood

Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement

ERICA DUNVILLE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.
My Commission Expires NOV. 3, 2015

Subscribed and sworn to before me on: 7/9/14

Notary Public Signature: Erica Dunville

My commission expires on: 11/3/15

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-21-14
Date

Department of State Use Only

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SECRETARY OF STATE

Filed with the Department of State on: 7-24-14

Effective on: 10-22-14

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Board of Pharmacy

DIVISION: Health Related Boards, Department of Health

SUBJECTS: Compounding and Distribution of Sterile Products / Fee Increases for Licensees

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 53-10-303, 53-11-301 through 302, 53-14-104, 53-14-106 and 107, 56-1-302, 63-10-202 through 205, 63-10-210, 63-10-216, 63-10-301, 63-10-304 through 306, 63-10-308, and 63-10-504 through 506

EFFECTIVE DATES: October 9, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The proposed rules would make substantial additions to the current pharmacy rules, especially with regard to the compounding and distribution of sterile products. Several new definitions need to be added to Tenn. R. Comp. & Reg. 1140-01-.01 in order to comply with current law. No definitions currently in that section will be modified or deleted.

The proposed rules also increase fees for licensees, and require any licensee engaged in sterile compounding or that handles or distributes sterile products to purchase an additional registration from the Board of Pharmacy. Registration fees and biennial renewal fees for pharmacist licenses would increase from ninety-six dollars ($96.00) to one hundred twenty-five dollars ($125). The biennial fee for an inactive license would increase from forty-eight dollars ($48.00) to sixty-three dollars ($63.00). The registration fee and biennial renewal fee for pharmacy technicians would increase from fifty dollars ($50.00) to seventy-five dollars ($75.00). The licensing fee and biennial registration fee for a pharmacy practice site would increase from one hundred sixty-eight dollars ($168) to three hundred dollars ($300). The registration fee and biennial renewal fee for manufacturers and wholesalers/distributors of prescription drugs and devices would increase from four hundred eight dollars ($408) to

five hundred twenty-five dollars ($525). The owner or operator of a pharmacy practice site dealing with sterile products would be required to pay a registration fee and biennial renewal fee of two hundred fifty dollars ($250). The proposed rules would also create a new section 1140-01-.12 which deals with sterile product registrations.

The proposed rules also renumber current sections 1140-01-.12, 1140-01-.13, and 1140-01-.14 as 1140-01-.13, 1140-01-.14, and 1140-01-.15 accordingly.

The proposed rules would extensively modify Tenn. R. Comp. & Reg. 1140-07. New section 1140-07-.02 "Standards" would be created, and would contain requirements mandating that licensees who compound sterile products comply with sterility guidelines adopted by the Board and new reporting requirements imposed by state law. Sections 1140-07-.03, 1140-07-.04, 1140-07-.05, 1140-07.07 and 1140-07.08 are amended to require compliance with Board sterility guidelines, rather than the specific and inadequate provisions currently effective.

Proposed modifications to Sections 1140-07-.04 would require an expansion of the areas covered in licensees' Policy and Procedure manual, and would further require compliance with the Policy and Procedure manual.

Proposed modifications to Section 1140-07-.08 would also require licensees to perform a gap analysis in between inspections by Board investigators, and would require licensees to report exceptions or deficiencies uncovered by those analyses to the Board.

Proposed modifications to Tenn. R. Comp. & Reg. 1140-09 would require sterile products manufacturers to provide the following materials to the Board of Pharmacy: upon request by the Board of Pharmacy or the executive director, a list of sterile products currently being manufactured, wholesaled and distributed and the name and contact information for any laboratory, corporation, or other organization that may perform sterility and potency testing, or similar procedures for the purposes of quality assurance on any drug or biologic product produced by the applicant. Section 1140-09-.02 would be modified to require that owners or managers of such facilities submit to a criminal background check. The title of Section 1140-09-.05 is amended to include the word "General" so that it now reads "Minimum Requirements for General Operation." New section 1140-09-.06 would be created, titled "Minimum Requirements for Sterile Product Operation," which would require manufacturers or

wholesaler/distributors to comply with Board guidelines for the manufacture or distribution or sterile drug products.

Subsequent to the July 7 rulemaking hearing, the Board voted to amend the proposed changes to Section 1140-07-.02(4), drastically reducing reporting requirements for affected stakeholders. Prior to the hearing, the proposed rules would have required quarterly reporting of all products compounded by licensees. As amended, the proposed rules will only require quarterly reporting of sterile compounded products produced in batch lots not pursuant to a patient-specific prescription or medical order; they will also require the reporting of all high-risk sterile products (whether batch-made or patient-specific). This change would exempt patient-specific low and medium-risk compounded products from the quarterly reporting requirements (low- and medium-risk products are compounded much more often than high-risk ones).

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.

Dennis Roberts of Baptist East Hospital in Memphis submitted the following comments via email:

"As far as tracking lot #s from automated dispensing cabinets, that will be virtually impossible. If the cabinet has heparin 5000 unit vials stocked, they will all be in one drawer and there could be multiple lot numbers. There is no way to know which vial or lot # the nurse picks from that drawer. Omnicell has no ability to add this capability to their system. Once the lot numbers are imbedded in the bar codes, bedside med verification could capture the lot numbers but there is no way of knowing how far off that technology is. Until technology is available, there is no way to be compliant with this rule."

"There are several other issues regarding the proposed rules but this one is the most troubling. I hope the Board will take into consideration hospitals like Baptist East. I have 109 automated dispensing cabinets and that is just on site. We also have cabinets in other campus locations. It appears the Board's objective is to track lot numbers to patients for all medications dispensed. What about areas that use floor stock and the medications are charged and restocked manually?"

"I appreciate what the Board is trying to do in the interest of patient safety but it will not help patients if the Board enacts rules that cannot be complied with."

Nancy Granger, D.Ph., Inpatient Pharmacy Operations Manager, Fort Sanders Regional Medical Center along with Chris Norris Pharm D., Pharmacy Director, a pharmacist at Fort Sanders Regional Medical Center submitted a letter via email to the Board of Pharmacy addressing concerns over the rule amendments. They admit that changes in sterile compounding rules are needed; however, they are concerned that the rules as written will require too much time with recordkeeping and other paperwork, stating that their hospital would require hundreds a day to be logged which would require additional staff and delay patients from receiving necessary compounding medicine timely. They also point out that rule 1140-07-.02(5) and (6) seem to be stating the same thing with (6) requiring stricter compliance measures. They fear that keeping the records required would be too volumonous, and that it may require computer records which would be costly. Additionally, they have concerns that labeling each product and notating each patient that receives them would disturb the hospital's current distribution process. Ultimately, they do not feel like this paragraph was written with hospitals in mind. Lastly, they request, that if the Board adopts these amendments, language can be included to exempt hospitals from the labeling requirement. They summarize the letter by stating, "[t]o fully implement the 2014 Chapter 1140-7 Sterile Product Preparation rules will jeopardize our ability to stock compounded sterile products on nursing units where they can be readily available for critically ill patients. The rules will also delay getting immediate use preparations from the pharmacy to the patient due to time consuming recordkeeping."

Jeanne Ezell, M.S., FASHP, Director of Pharmacy and Residency Program, at Blount Memorial Hospital also submitted comments to the Board via email. Blount Memorial services outpatients who receive sterile products, and as such, Ms. Ezell would like the Board to address an exemption for such services as the status of the patients makes sterile product administration harder to track. She also request that the Board clarify if a hospital is required to report sterile products administered when a nursing home requests that same from the hospital. Ms. Ezell also expresses the same concerns mentioned above by representatives of Fort Sanders Medical Center with regards to rule 1140-07-.02(5) and (6). Regarding 1140-07-.03, Ms. Ezell questions whether a technician would be excluded from purchasing and storing, etc. any materials used in sterile compounding. She states that Blount Memorial uses pharmacy technicians to order materials and to monitor and document observation tests as using a pharmacist for these tasks would be a waste of time. She further states that "quality assurance" and "quality control" need to be defined, because in the rules, the elements of the two seem to be similar. Lastly, Ms. Ezell does agree with requiring Work Practice Guidelines for Personnel Dealing with Cytotoxic Drugs and ASHP Technical Assistance Bulletin on Handling Cytotoxic and Hazardous Substances, but she questions whether pharmacists mixing chemo or chemo prep competencies need to re-read these materials annually.

The Board did not directly address any of the written comments during the hearing.

The first public comments at the rulemaking hearing came from Jim Hinkle, a pharmacist at the University of Tennessee Medical Center. He expressed the University's full support of the goals of the rules, to promote public safety. He mentioned that there may be some confusion as there seems to be no distinction in the rules between sterile and non-sterile components. The University hospital feels that sterile compounding using non-sterile components should carry greater restrictions than sterile compounding where all components are sterile to begin with.

Richard Green, Director of Radiopharmacy Practice with Cardinal Health, addressed the Board with concerns over nuclear pharmacies that compound nearly all of their products, but do not engage in high-risk sterile compounding. He went on to say that the unique practice would be financially pressed to comply with the gap analysis presented in rule 1140-07-.08. Additionally, Dr. Green expressed similar concerns about the breadth of record-keeping requirements contained in the proposed rules.

The Board later considered comments and decided to amend rule 1140-07-.02(4) to specify that persons compounding or dispensing high risk or batch sterile products must comply with tracking requirements. The Executive Director of the Board and legal staff further clarified that many of the record-keeping concerns (e.g., the mistaken belief that patient names would have to be written on the label of every dose of compounded medication used in a hospital emergency room; the recording and/or assignment of lot numbers for individual dosage units of medication, rather than the maintenance of a lot numbers only for the bulk components used to compound those dosage units) were not reflected in the actual language of the rules themselves.

Dr. Brenda Warren with Accredo Health commented on several provisions within the rules. Her first comment centered on rule 1140-07-.01. She suggested that the Board may want to specify that product requirements for this rule are applicable for those drugs in or coming into Tennessee. She also suggested that the Board replace "USP standards" in rule 1140-07-.02(1) with "Board of Pharmacy", so as to not limit the Board to the current USP restrictions. Dr. Warren suggested that the Board model a form for reporting similar to the Massachusetts form. Dr. Warren also commented on and suggested a revision to rule 1140-07-.03(1)(f) to include the words "as needed" after twenty four (24) hour a day basis, while also questioning whether the Board meant to add an annual CE requirement or just simply require training. Dr. Warren also commented on labeling stating that it was hard to find the pharmacists that actually signed off on the sterile product. Lastly, she asked the Board if all of these requirements align with USP 797.

Mark Sullivan, a pharmacist with Vanderbilt University Medical Center, also commented on the rules, first asking the Board whether the term "commercially available" was meant to be used in context with hospitals, which often compound commercially available drug products for "in-house" use on patients. Dr. Sullivan also asked if hospitals could be exempt from these requirements for outpatients as well as inpatients (current law exempts hospital inpatients from many requirements of the Board's compounding rules). Dr. Sullivan raised the issue of capital costs to comply with the record-keeping requirements in the rules. The hospital would need to invest money in computer systems and other mechanisms in order to keep the required records. Lastly, Dr. Sullivan encouraged the Board to look at future rulemaking that would place tougher restrictions and requirements on companies or labs who conduct quality assurance testing and similar evaluations on compounded products.

Mark Binkley, pharmacist and owner of Health and Wellness Compounding Pharmacies, spoke in support of the rules as written. He noted that the focus of these rules was to promote public health and safety and that it would require careful examinations on the number of sterile products that were prescribed and dispensed. He also noted that his pharmacy currently has a tracking program that is very easy to use and that operates by scanning a bar code. He does not think that the rules would require unnecessary or burdensome recordkeeping for independent pharmacies like his own.

Baeteena Black, a representative of the Tennessee Pharmacy Association which also submitted written comments, orally reiterated some key points of the Association's letter. Dr. Black mentioned that several references were made to outpatients and asked the Board if they intended exemptions for hospital outpatients similar to those already present for inpatients. She added that TPA feels that quarterly reporting by every compounder for every sterile product produced, whether low, medium or high risk, would be of little value to the Board. She also addressed the labeling requirements and noted that complying with these requirements would be very difficult for an institutional pharmacy, specifically the patient name requirement for labels. As pointed out above, the rules actually allow an institution to put the institution's name on the label instead of an individual patient. This permissive language would allow the hospital to put an institutional name on a vial of medication to be used in the emergency room.

Regarding rule 1140-07-.02, the TPA urges the Board to come into compliance with USP 797, stating that batch versus individual requirements would create some unintended barriers to these rules. She went on to express support for the Board in the purpose of its rulemaking.

Bill Greene, a pharmacist with St. Jude, also commented on the rules. He also mirrored the comments above regarding inpatients and outpatients, but felt that this issue was less important than drawing regulatory distinctions between products which are low risk, medium risk, and high risk. He commended the Board for its quality assurance measures. He also noted that technology used at St. Jude does not currently allow for lots numbers to be recorded by bar code, that they must be hand-entered.

Chuck Ashley with Methodist Medical Center of Oak Ridge submitted comments in tune with those submitted by other hospitals. Dr. Nina Smothers, a Board member who was not present at the hearing, spoke with attorney Stefan Cange by phone the day before the hearing and expressed similar concerns. Mr. Cange discussed Dr. Smothers' concerns before the Board during the hearing.

The Board asked whether drugs could be tracked by bar code.

Bruce Warren with St. Jude answered by explaining that computers track products by bar code with a picture taken under the hood, to have a bar code track the individual drug and the patient that received that drug, those type of records must be entered manually.

The Board also discussed the difference between outpatients and inpatients. It considered adding a definition of "outpatient" to the rules. Dr. Reginald Dilliard, Executive Director of the Board of Pharmacy, suggested basing future definitions of inpatient and outpatient on the definitions used by the Center for Medicare and Medicaid Services (CMS).

Dr. Black, with the Tennessee Pharmacists Association, again spoke regarding this issue stating that the CMS definition creates problems because this definition separates outpatients for Medicare billing purposes, not for purposes of labeling sterile products. The Board did not vote to incorporate the new definition. The Board did resolve during the hearing to implement a policy statement interpreting the terms "inpatient" and "outpatient" as used in the rules at its July 30 and 31 meeting. Board staff will solicit stakeholder input for this policy statement between July 7 and the July 30, 31 meeting.

Dr. Hinkle and Dr. Greene again commented on the issue with lot numbers. Both parties believed that it would be difficult for institutional facilities to maintain records of lot numbers if those numbers were assigned to individual compounded doses of medication. Dr. Buddy Stephens, Board member, emphasized the importance of keeping records of lot numbers for reporting purposes. Dr. Stephens noted that high-volume non-institutional pharmacies keep extensive records of the drugs they dispense, and did not understand why a large institution would not be able to similarly comply.

Dr. Mark Binkley commented that the assignment of lot numbers to individual doses is more stringent than USP standards, but noted that the tracking of lot numbers was crucial for quality assurance and public safety. Dr. Binkley again argued that such recordkeeping should not present a problem for any institution because it is necessary to ensure public health. Bruce Warren with St. Jude once again commented on the paucity of tracking software and methods, concerned that if the rules become effective, St. Jude's will not be able to comply with them.

The Board addressed this concern by stating that it still has the power to grant temporary waivers to ease institutions into compliance with reporting requirements. Additionally, as mentioned earlier, many institutions believed that the rules would have required the assignment of lot numbers to individual doses of medication. For a hospital that compounds thousands of doses of sterile products each day, such a requirement could be overly burdensome. However, as written and adopted by the Board, the rules only require hospitals to maintain records of lot numbers for "components" of compounded products. Therefore, lot numbers for individual doses do not need to be recorded or assigned, only the lot numbers of the products which are used to make those dosage units need to be recorded.

Ultimately, the Board unanimously accepted the rules in their entirety, with one amendment to rule 1140-07-.02(4), which now shall read: "[a]ny licensed pharmacy which compounds sterile products, except hospital pharmacies compounding for inpatients of a hospital, shall submit to the Board of Pharmacy, on a quarterly basis, a report listing the quantity of high risk or batch sterile products, as defined by USP standards, compounded and dispensed during the previous quarterly period and any other information as required by USP standards." The

Board voted to add the words high risk or batch" and "as defined by USP standards." This amendment would exempt medium and low-risk sterile compounded products from the quarterly reporting requirements. Coupled with the clarification of rule language at this hearing with respect to lot numbers (the rules do not require lot numbers to be assigned to individual compounded doses of medication) and labeling (the rules do not require an institution to place a patient name on a label for medications used in the emergency room, that are administered during an outpatient surgical procedure, or under similar circumstances) this amendment greatly reduces the record-keeping requirements for stakeholders. It should also serve to streamline government operations by reducing the amount of paperwork that needs to be processed by Board staff.

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

The amended rules do not overlap, duplicate, or conflict with other federal, state, and local government rules.

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

The amended rules exhibit clarity, conciseness, and lack of ambiguity.

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

Compliance and reporting requirements were intended to be as unobtrusive as possible, while still protecting public safety. The proposed rules also allow the Board of Pharmacy to grant exemptions from compliance and reporting requirements upon a showing of good cause.

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

The schedules and deadlines for compliance and reporting are objective and occur at regular intervals. The Board will also conduct outreach and provide education to stakeholders.

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

The reporting requirements are the same for both small and large businesses. The requirements are well-defined.

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

The proposed rules do not set any performance standards, but do establish design and operational standards. The proposed rules also allow the Board of Pharmacy to grant exemptions from these standards.

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

The amended rules create no entry barriers or other effects that would stifle legitimate entrepreneurial activity, curb innovation, or increase costs for legitimate businesses. Many of the requirements imposed by these proposed rules have already been adopted by a plurality of other states. Many of the proposed requirements are equal to, or less stringent than, equivalent federal statutes and rules. Most of the impacted stakeholders already comply with these other state and federal standards.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Board of Pharmacy

Rulemaking hearing date: TBD

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:**

   Some pharmacies, hospitals, drug/medical device manufacturers, drug/medical device manufacturers/distributors, and other entities tangentially involved in the pharmaceutical and medical device industries may have to bear significant compliance costs.

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:**

   In keeping with the requirements imposed by Public Chapter 266, additional reporting requirements for compounding pharmacies must be satisfied. These reports can be prepared by clerical or administrative staff, but will likely be generated automatically by software.

   The proposed rules would also require some additional record-keeping requirements, which could be performed by clerical or administrative staff, but again will likely be facilitated or completed through the use of software.

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

   Many small businesses in the drug and device industry already comply with the standards proposed by this rule and will not bear any additional costs due to its implementation. These nationally-recognized standards have been implemented in dozens of states and largely equivalent to federal standards, so small businesses which routinely operate outside Tennessee or deal with federal authorities on a regular basis may derive some benefit from these rules, as they will not have any additional compliance costs. Unsophisticated, poorly managed small businesses, or those which purposely operate in legal grey-areas, will be negatively impacted by the proposed rules.

   The proposed rules are designed to protect the public and ensure the stability of drug supplies. Both of these would have a positive effect on consumers.

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

   The proposed rules would allow the Board of Pharmacy to grant exemptions from the more burdensome requirements upon a showing of good cause. The Department of Health, in cooperation with the Board, is in the process of designing a form to facilitate the application for and consideration of exemptions to the proposed rules. There are no less burdensome, intrusive, or costly alternative methods which provide the same level of protection to the public. Due to the exigent circumstances surrounding the fungal meningitis outbreak and subsequent outbreaks of infections associated with unsafe compounded products, the proposed rules represent the best and only way to protect the public as well as the legitimacy of the pharmacy compounding industry.

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

   Federal: Currently, there is no exact language for these proposed rules in the federal laws. Similar federal rules imposed on drug manufacturers registered with FDA, known as "Good manufacturing Practices" are substantially more stringent than the proposed rules. Recent federal legislation (Drug Quality and Security Act of 2013) imposes equivalent standards on

"outsourcing facilities," which are entities which compound drugs pursuant to sales orders, or other non-prescription orders (the drugs are not designated for a specific patient).

State: Most other states have adopted standards which mirror, or are largely equivalent to, the proposed rules. A tiny minority of states have standards which are less stringent than those contained in the proposed rules.

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

Small businesses, upon a showing of good cause, can apply for an exemption from certain provisions of the proposed rules. Such exemptions will allow these businesses to continue operating and providing critically needed drugs to those in need. A complete exemption from the proposed rules for small businesses would defeat the purpose of the proposed rule and places the public at risk.

Impact on Local Governments

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

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

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Rule ID(s): 5755-5757
File Date: 7/11/14
Effective Date: 10/9/14

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

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Revision Type (check all that apply):
X 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)

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.RULES
OF
THE TENNESSEE BOARD OF PHARMACY

CHAPTER 1140-01
INTRODUCTORY RULES

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1140-01-.01 DEFINITIONS.

(1) "ACPE" means the Accreditation Council for Pharmaceutical Education.

(2) "Alternate or alternative infusion pharmacy practice site" means a pharmacy practice site where parenteral, enteral or respiratory therapies, and ancillary supplies, medications and equipment are provided to patients in a non-institutional setting.

(3) "Accreditation Council for Pharmacy Education (ACPE)" means the national organization for accreditation of professional degree programs in pharmacy and for accreditation of providers of continuing pharmacy education.

(4) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(5) "Blood fraction/component" means that part of blood separated by physical or mechanical means.

(6) "Centralized Prescription Processing" is the filling or refilling of a lawful prescription order written by the patient's authorized prescriber by one (1) pharmacy licensed by the State of Tennessee at the request of another pharmacy licensed by the State of Tennessee for the delivery of the prescription drugs to the patient or patient's agent.

(7) "Certified pharmacy technician" means an individual who is certified by a national or state agency that offers a certification program that is recognized by the board.

(8) "Commercially available" means any marketed FDA-approved drug or biologic product not currently listed on any official shortage list recognized by the Board of Pharmacy.

(9) "Component" means any active ingredient, or any added substance, inactive ingredient, excipient or pharmaceutic ingredient, intended for use in the compounding of a drug product, including those that may not appear on the product label.

(Rule 1140-01-.01, continued)

(10)(~~8~~)"Consultant pharmacist" means a pharmacist retained on a routine basis to consult with organizations, institutional facilities or patients in areas that pertain to the practice of pharmacy.

(11)(~~9~~)"Contact hour" means any hour of completed continuing pharmaceutical education programming which is:

(a) accredited by ACPE (including, but not limited to, live programs, independent study courses, home correspondence courses, and audio or video cassettes); or

(b) approved by the board (including, but not limited to, attendance at state, district, or local pharmacy association meetings).

(12)(~~10~~)"Continuing education unit" means ten (10) hours of participation in an ACPE approved or board-approved continuing pharmaceutical education program under responsible sponsorship, capable direction, and qualified instruction.

(13)(~~11~~)"Drug sample" means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the prescription drug.

(14)(~~12~~)"Electronic medical or prescription order" means a medical or prescription order which is transmitted by computer technology other than by electronic image transmission.

(15)(~~13~~)"Facsimile (FAX) medical or prescription order" means a medical or prescription order which is transmitted by an electronic image transmission.

(16)(~~14~~)"Foreign pharmacy graduate" means a person whose undergraduate pharmacy degree was conferred by any college or school of pharmacy not accredited by the ACPE but which is listed in the World Health Organization World Directory of Colleges and Schools of Pharmacy, or otherwise approved by the Foreign Pharmacy Graduate Examination Committee (FPGEC) certification program as established by the National Association of Boards of Pharmacy.

(17)(~~15~~)"Hazardous product" means any substance that may be cytotoxic, genotoxic, oncogenic, mutagenic, teratogenic, or otherwise pose a potential health hazard.

(18)(~~16~~)"Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services, and where patients spend a majority of their time within the facility, including but not limited to a(n):

(a) adult care facility;
(b) assisted living facility;
(c) correctional facility;
(d) developmental disability center;
(e) hospital;
(f) inpatient psychiatric center;
(g) intermediate care facility for the mentally retarded;
(h) mental health facility;
(i) nursing facility;
(j) personal care home;
(k) rehabilitation center;
(l) residential drug or alcohol treatment center;
(m) rest home;
(n) retirement center;
(o) sub-acute care facility; and

(Rule 1140-01-.01, continued)

(p) university health center.

(19)(~~17~~)"Institutional pharmacy practice site" means a pharmacy practice site serving patients within an institutional facility.

(20)(~~18~~)"Medication order" means a prescription order for any prescription drug or device or related material issued by an authorized prescriber to authorized healthcare personnel in an institutional facility or institutional pharmacy practice site.

(21)(~~19~~)"National Association of Boards of Pharmacy (NABP)" means the professional organization that represents the individual state boards of pharmacy.

(22)(~~20~~)"Nuclear pharmacy practice site" means a pharmacy practice site providing radiopharmaceutical services.

(23)(~~21~~)"Patient counseling" means communication by the pharmacist of information to the patient or caregiver in order to improve therapeutic outcome.

(24)(~~22~~)"Pharmaceutical care" is the responsible provision of drug therapy through, among other things, pharmacists identifying potential and actual drug-related problems and resolving and preventing drug-related problems, for the purpose of achieving definite outcomes that improve a patient's quality of life. The outcomes include but are not limited to cure of a disease, elimination or reduction of a patient's symptomatology, arresting or slowing of a disease process and the preventing of a disease or symptomatology.

(25)(~~23~~)"Pharmacy internship" is a period of practical pharmacy experience under the direct supervision of a licensed pharmacist and pursuant to the rules of the board.

(26)(~~24~~)"Pharmacy practice site" means any place within this state where prescription drugs or prescription devices are dispensed and where pharmaceutical care is provided, and any place outside of the state where prescription drugs or prescription devices are dispensed and pharmaceutical care is provided to persons residing in this state.

(27)(~~25~~)"Preceptor" means an individual who is currently licensed as a pharmacist and who meets the qualifications of a preceptor under the rules of the board and participates in the education of pharmacy interns.

(28)(~~26~~)"Prescription department" means the area of a pharmacy practice site in which prescription drugs and devices and related materials are stocked and medical and prescription orders are compounded and dispensed.

(29)(~~27~~)"Quality assurance" means a system for identifying problems in patient care that are resolved via administrative, clinical, or educational actions to ensure that final products and outcomes meet applicable specifications.

(30)(~~28~~)"Radiopharmaceutical service" means, but is not limited to:

(a) the compounding, dispensing, labeling, and delivering of radiopharmaceuticals;

(b) the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews;

(c) the proper and safe storage and distribution of radiopharmaceuticals;

(d) the maintenance of radiopharmaceutical quality assurance;

(e) the responsibility for advising, where necessary or where regulated, of the diagnostic and therapeutic value, hazards, and use of radiopharmaceuticals; and

(f) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a nuclear pharmacy practice site.

(31)(29)"Reciprocity" means to issue a license to an applicant who furnishes satisfactory proof of licensing by examination in another state or territory pursuant to the rules of the board.

(32)(30)"Shall" means that compliance is mandatory.

(33) "Sterile product" means any dosage form, drug product, or biological product devoid from all living microorganisms, including but not limited to bacteria and fungus.

(34) "Sterile manufacturing" means the production, propagation, processing, pooling, or repackaging of sterile products for wholesale or any other form of distribution, not pursuant to a prescription or medical order.

(35)(31)"Third party pharmacy program" means any system of providing for the reimbursement of medical or prescription orders and/or pharmaceutical care services under a contractual arrangement or agreement between a provider of such services and the third party program administrator who is not the consumer of those services.

(36)(32)"Third party pharmacy program administrator" means, but is not limited to, insurance companies, managed care organizations, health maintenance organizations, preferred provider organizations, pharmacy benefit managers, and pharmacy services administrative organizations.

(37)(33)"Unit dose packaging" means that packaging which is designed to hold a quantity of a drug product intended for administration as a single dose.

(38)(34) "USP" means the United States Pharmacopeia.

(39) "USP standards" means any applicable standard or standards published in the most current version of United States Pharmacopeia National Formulary guidelines, to the extent that such guidelines do not conflict with state law, rules, or Board Policy Statements and as those guidelines may, from time to time, be amended.

Authority: *T.C.A. §§ 63-10-101, 63-10-102, 6-10-404(5), (6), (14), (22), (26), (28), and (29), 63-10-304, 63-10-304(b)(1), 63-10-504(b)(1), and Chapter 966 of the Public Acts of 2008 §1.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Repeal and new rule filed May 11, 1998; effective July 25, 1998. Amendment filed November 24, 2008; effective February 7, 2009. Amendment filed December 23, 2009; effective March 23, 2010.*

1140-01-.02 VIOLATIONS CONSTITUTE UNPROFESSIONAL CONDUCT.

~~(1) Any person who violates any rule of the board may be deemed guilty of dishonorable, immoral, unethical or unprofessional conduct within the meaning of T.C.A. § 63-10-505(6).~~

(Rule 1140-01-.01, continued)

(1) Any person who violates any rule of the board may be deemed guilty of dishonorable, immoral, unethical or unprofessional conduct within the meaning of *T.C.A. § 63-10-305(6).*

Authority: *T.C.A. §§ 63-10-101, 63-10-102, 63-10-202, 63-10-504(b)(1), and 63-10-505(6).* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed August 14, 1974; effective September 13, 1974. Repeal filed January 11, 1977; effective February 10, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed January 19, 1988; effective April 27, 1988. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.03 APPLICATION FOR A PHARMACIST LICENSE.

(1) An applicant for a license to engage in the practice of pharmacy shall submit the following to the Board office at time of application:

(a) A completed application on a form approved by the Board;

(b) Application and registration fees established in rule 1140-01-.10; and

(c) The result of a criminal background check, which the applicant shall pay for and cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.

(d) Any application submitted which lacks required information or reflects a failure to meet any of the requirements for licensure will be returned to the applicant with written notification of the information that is lacking or the reason(s) the application does not meet the requirements for licensure and will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed sixty (60) days from date of written notification.

(2) For the purpose of *T.C.A. § 63-10-506(d),* a "recognized" college or school of pharmacy is a college or school of pharmacy which meets the minimum standards of the ACPE and appears in the ACPE "Annual Directory of Accredited Professional Programs of Colleges and Schools of Pharmacy."

(3) No applicant shall be eligible for a license if the applicant has engaged in conduct or suffers a condition which would constitute grounds for revocation or suspension of a license under *T.C.A. § 63-10-505*, unless the applicant can show cause why a license should be issued.

(4) No license shall be issued to a reciprocal applicant from a state which denies reciprocal privileges to a pharmacist currently licensed and in good standing in Tennessee.

(5) It shall be unlawful for any person to procure or attempt to procure a license or certificate of registration for such person or for any other person by making any false representations.

(6) An applicant initially licensed in another state and who wishes to obtain a Tennessee license may, in the discretion of the board, transfer to Tennessee the applicant's score on NAPLEX taken in another state. Provided, however, if the applicant has been licensed for twelve (12) or more months in another state, then the applicant shall apply for a license in Tennessee by reciprocity. No license shall be issued to a score transfer applicant from a state which denies score transfer privileges to a pharmacist currently licensed and in good standing in Tennessee.

(Rule 1140-01-.03, continued)

Authority: *T.C.A. §§ 63-10-101, 63-10-102(a), 63-1-116, 63-10-202, 63-10-304, 63-10-306, 63-10-404(2), (13), (17), and (26), 63-10-404(2), (13), (17), and (26), 63-10-504(b)(1), 63-10-506, and 63-10-508.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed December 17, 1984; effective March 16, 1985. Amendment filed October 30, 1991; effective December 14, 1991. Repeal and new rule filed May 11, 1998; effective July 25, 1998. Amendment filed January 4, 2012; effective April 3, 2012.*

1140-01-.04 PHARMACY INTERNSHIP.

(1) An applicant for an initial pharmacist license by examination must show, on affidavit forms prescribed by the board, that the applicant has acquired a minimum of one thousand five hundred (1,500) hours of pharmacy internship (practical pharmacy experience) under the instruction of a pharmacist in good standing, subject to all of the following conditions.

(a) The one thousand five hundred (1,500) hours must be acquired after enrollment in a recognized college or school of pharmacy; one thousand one hundred (1,100) of these hours may be acquired in pharmacy programs or demonstration projects structured by the college or school of pharmacy.

(b) Pharmacy internship may be acquired in another state, provided that the preceptor's qualifications are certified by the appropriate authorities of such state.

(c) Four hundred (400) of these hours may be acquired in non-traditional pharmacy internship programs which have received prior approval of the board.

(d) Foreign pharmacy graduates shall complete five hundred (500) hours of pharmacy internship in Tennessee within a period of six (6) consecutive months.

Authority: *T.C.A. §§ 63-10-101, 63-10-102, 63-10-202, 63-10-404(29), and 63-10-504(b)(1).* ***Administrative History:*** *Original rule filed June 7, 1974; effective July 7, 1974. Amendment filed September 23, 1975; effective October 23, 1975. Amendment filed January 11, 1977; effective February 10, 1977. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed December 17, 1984; effective March 16, 1985. Amendment filed January 19, 1988; effective April 27, 1988. Repeal and new rule filed Mary 11, 1998; effective July 25, 1998.*

1140-01-.05 LICENSING EXAMINATIONS.

(1) An applicant for an initial license to engage in the practice of pharmacy in the State of Tennessee shall take the National Association of Boards of Pharmacy (NABP) Multistate Pharmacy Jurisprudence Examination (MPJE®) and the NABP North American Pharmacy Licensing Examination (NAPLEX®), which shall be administered on the dates scheduled by the NABP. An applicant shall also meet the minimum acceptable passing scores on the NAPLEX® and MPJE® as established and nationally accepted.

(2) An applicant to obtain a pharmacy license by reciprocity shall successfully complete the MPJE®.

(3) In addition to completing the requirements in paragraph (1) of this rule, a pharmacy foreign graduate shall successfully complete the foreign pharmacy equivalency examination, the Test of Spoken English (TSE®) examination and any other requirements established by the NABP.

(4) Any applicant who fails either the NAPLEX® or MPJE® may retake the examinations at any of the next examination dates scheduled by the NABP. If an applicant fails the NAPLEX® or MPJE® three (3) consecutive times, then the Board may require that applicant to take review courses prior to any following reexamination.

(Rule 1140-01-.05, continued)

Authority: *T.C.A. §§ 63-10-304 and 63-10-306.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Repeal and new rule filed May 11, 1998; effective July 25, 1998. Amendment filed November 24, 2008; effective February 7, 2009.*

1140-01-.06 SUMMARY SUSPENSION OF LICENSE.

Pursuant to *T.C.A. § 4-5-320*, if the board finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action.

Authority: *T.C.A. §§ 4-5-320, 63-10-101, 63-10-102, 63-10-504(b)(1), 63-10-504(b)(2), and 63-10-505.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed November 15, 1989; effective December 30, 1989. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.07 INACTIVE LICENSES AND LICENSE REINSTATEMENT.

(1) A pharmacist may apply for an inactive license by:

(a) Completing the biennial license renewal application form; and

(b) Paying the biennial renewal fee for an inactive license.

(2) A pharmacist maintaining an active license to practice pharmacy in another state or jurisdiction is ineligible for inactive license status in Tennessee.

(3) A pharmacist seeking active status for an inactive, delinquent, suspended or revoked license must fulfill the following minimum requirements.

(a) If the license has been inactive, delinquent, suspended or revoked for less than one (1) year, the pharmacist shall:

1. Provide written notice to the board requesting an active license;

2. Satisfy all past due continuing pharmaceutical education as required by the board; and

3. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked.

(b) If the license has been inactive, delinquent, suspended or revoked from one (1) year to not more than five (5) consecutive years, the pharmacist shall:

1. Provide written notice to the board requesting an active license;

2. Satisfy all past due continuing pharmaceutical education as required by the board;

3. Successfully complete the jurisprudence examination;

4. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked; and

(Rule 1140-01-.07, continued)

5. Complete a period of pharmacy internship in Tennessee as follows.

(i) If the license has been inactive, delinquent, suspended or revoked from one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

(ii) If the license has been inactive, delinquent, suspended or revoked for more than three (3) consecutive years but not more than five (5) consecutive years, three hundred twenty (320) hours within one hundred eighty (180) consecutive days.

(c) If the license has been inactive, delinquent, suspended or revoked for more than five (5) consecutive years, the pharmacist shall:

1. Provide written notice to the board requesting an active license;

2. Satisfy all past due continuing pharmaceutical education as required by the board;

3. Successfully complete the NAPLEX and jurisprudence examinations;

4. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked; and

5. Complete a period of pharmacy internship of three hundred twenty (320) hours within one hundred eighty (180) consecutive days.

(d) Fulfill any other requirements which may be contained in any order of the board suspending or revoking the applicant's license.

(e) The board shall consider a written notice requesting reinstatement of an inactive, delinquent, suspended or revoked license within ninety (90) days of the notice being received by the director.

(f) The board shall consider a waiver upon request.

Authority: *T.C.A. §§ 63-10-101, 63-10-102, 63-10-210, 63-10-404(17), and 63-10-504(b)(1).* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed June 7, 1974; effective July 7, 1974. Amendment filed September 23, 1975; effective October 23, 1975. Amendment filed January 11, 1977; effective February 10, 1977. Amendment filed April 11, 1979; effective July 30, 1979. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed January 26, 1987; effective April 29, 1987. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.08 APPLICATION FOR PHARMACY PRACTICE SITE, MANUFACTURER AND WHOLESALER/DISTRIBUTOR LICENSES.

(1) Application for a license to operate as a pharmacy practice site, manufacturer or wholesaler/distributor within the state of Tennessee shall be submitted to the office of the board at least thirty (30) days prior to the scheduled opening date. No pharmacy practice site, manufacturer or wholesaler/distributor may open within the state of Tennessee until a license has been obtained; and such license will not be issued until an inspection by an authorized representative of the board has been made.

(Rule 1140-01-.08, continued)

(2) An application for an existing pharmacy practice site, manufacturer or wholesaler/distributor physically located within the state of Tennessee must be filed when the pharmacy practice site, manufacturer or wholesaler/distributor changes name, location or ownership.

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

1. A sole proprietor becomes a member of a partnership or corporation, which succeeds him as the new operator;

2. A partnership dissolves;

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

4. Two (2) or more corporations merge and the originally-licensed corporation does not survive; and

5. Transfers between levels of government.

(b) 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; and

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

(3) No out-of-state pharmacy practice site, manufacturer or wholesaler/distributor shall conduct business in the state of Tennessee until such pharmacy practice site, manufacturer or wholesaler/distributor obtains the required license from the board. In order to obtain a license for a pharmacy practice site, manufacturer or wholesaler/distributor physically located out-of-state the following standards must be met.

(a) Pharmacy practice site.

1. Submit an application for a license, which shall include the address of the pharmacy practice site, name of owner if a sole proprietorship, names of partners if a partnership or names and titles of all officers if a corporation and names of all pharmacists who practice at the site, together with the appropriate application fee. The director shall be notified in writing within thirty (30) days of any change in the information contained on the original application for a license, including names of pharmacists practicing at the site.

2. Comply with all statutorily authorized directions and requests for information from the board.

3. Maintain at all times a current permit, license or registration to conduct the pharmacy practice site in compliance with the laws of the state in which the site is physically located.

(Rule 1140-01-.08, continued)

4. Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the pharmacy practice site is physically located. Thereafter, the pharmacy practice site shall submit to the director a copy of any subsequent inspection report conducted by the regulatory or licensing agency of the state in which the site is physically located.

5. Maintain records of prescription orders dispensed to persons residing in Tennessee.

6. All records of prescription orders prepared and dispensed to persons residing in Tennessee shall be readily retrievable from other records.

7. During regular hours of operation, but not less than six (6) days per week nor for a minimum of forty (40) hours per week provide access to a pharmacist by a toll-free telephone service. A toll-free number shall be placed on the label affixed to the dispensing container for each prescription dispensed to a person residing in Tennessee.

8. Designate a pharmacist in charge who shall be responsible for compliance with the provisions in this section, and who shall hold a current Tennessee pharmacist license.

9. All out-of-state pharmacy practice sites shall comply with the requirements for patient counseling, patient profiling, drug regimen review and pharmaceutical care as set forth at 1140-03-.01.

(b) Manufacturer or wholesaler/distributor.

1. Submit an application for a license, which shall include the address of the manufacturer or wholesaler/distributor, name of owner if a sole proprietorship, names of partners if a partnership or names and titles of all officers if a corporation, together with the appropriate application fee. The director shall be notified in writing within thirty (30) days of any change in the information contained on the original application for a license.

2. Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the manufacturer or wholesaler/distributor is physically located. Thereafter, the manufacturer or wholesaler/distributor shall submit to the director a copy of any subsequent inspection report conducted by the regulatory or licensing agency of the state in which the manufacturer or wholesaler/distributor is physically located.

3. Comply with the requirements contained in Chapter 1140-09 of the rules of the Board of Pharmacy.

(4) Representatives of a manufacturer or wholesaler/distributor conducting business in the state of Tennessee and who possesses and distributes controlled substances shall obtain a controlled substance registration from the Board of Pharmacy.

(5) A manufacturer conducting business in the state of Tennessee and who manufactures, prepares, propagates, repackages, or processes sterile drug products or biological products using aseptic processing must register and possess a modifier as a sterile manufacturer with the Board of Pharmacy in accordance with this chapter. This section shall not apply to wholesalers/distributors of sterile products.

(6)~~(5)~~ It shall be unlawful for any person to procure or attempt to procure a license or certificate of registration for such person or for any other person by making any false representations.

(7)~~(6)~~ In determining whether to grant a license under this rule, the board shall require from the applicant proof satisfactory to the board that the:

(a) Applicant is of good moral character, or, if the applicant is a partnership or corporation, that the managing officers are of good moral character; and

(b) That the applicant is equipped as to land, buildings and equipment necessary to conduct the business for which the application has been submitted.

Authority: *T.C.A. §§ 53-11-301, 53-14-104, 53-14-106, 53-14-107, 56-1-302(b)(1)(2), 63-10-101, 63-10-102(a), 63-10-203, 63-10-204, 63-10-210, 63-10-404(18), (28), and (37), 63-10-504(b)(1), § 63-10-504(b)(2), and 63-10-508.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed September 30, 1985; effective October 30, 1985. Amendment filed January 19, 1988; effective April 27, 1988. Amendment filed August 25, 1989; effective October 9, 1989. Amendment filed October 30, 1991; effective December 14, 1991. Amendment filed November 17, 1994; effective March 30, 1995. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.09 RENEWAL OF LICENSES.

(1) All licenses and certificates of registration granted by the board shall be for a two (2) year period beginning on the date the license is initially granted. All licenses and certificates of registration shall be renewed on or before the last day of the two (2) year license cycle.

(2) A pharmacist or pharmacy technician serving in the uniformed services of the United States shall not be required to pay license or registration renewal fees during the period of active duty and the pharmacist shall not be required to complete continuing pharmacy education requirements during the period of active duty.

Authority: *T.C.A. §§ 53-11-301, 53-11-302, 56-1-302(b)(1)(2), 63-10-102(a), 63-10-404(17), 63-10-504(1) and (2), 63-10-304(b)(1) and 63-10-508.* ***Administrative History:*** *Original rule certified June 7, 1974. Repeal and new rule filed February 7, 1983; effective March 9, 1983. Amendment filed April 12, 1990; effective July 29, 1990. Amendment filed November 17, 1994; effective March 30, 1995. Repeal and new rule filed May 11, 1998; effective July 25, 1998. Amendment filed December 23, 2009; effective March 23, 2010.*

1140-01-.10 FEES.

(1) An applicant for examination for a license as a pharmacist shall pay a fee of fifty dollars ($50.00) plus cost of the examination and materials.

(2) An applicant for a reciprocal license or NAPLEX score transfer shall pay a fee of three hundred dollars ($300.00).

(3) Each person becoming licensed as a pharmacist shall pay a registration fee of one-hundred twenty-five dollars ($125.00).~~ninety six dollars ($96.00).~~ Each person licensed as a pharmacist who desires to continue in the practice of pharmacy shall biennially, on or before the last day of the month that the person's license shall expire, pay a renewal fee of one-hundred twenty-five dollars ($125.00).~~ninety six dollars ($96.00).~~ Each person licensed as a pharmacist and who wishes to obtain an inactive license shall biennially, on or before the last

day of the month that the person's license shall expire, pay a renewal fee of sixty-three dollars ($63.00).~~forty eight dollars ($48.00).~~

(4) Each person becoming registered as a pharmacy technician shall pay a registration fee of seventy-five dollars ($75.00).~~fifty dollars ($50.00).~~ Each person who desires to continue to practice as a pharmacy technician shall biennially, on or before the last day of the month that the person's registration shall expire, pay a renewal fee of seventy-five dollars ($75.00).~~fifty dollars ($50.00).~~

(5) Any person, partnership, firm, corporation or agency owning or operating a pharmacy practice site or any establishment or institution where prescription drugs and devices and related materials are kept for the purpose of the compounding and dispensing of medical and prescription orders shall pay a registration fee of three-hundred dollars ($300.00)~~one hundred sixty eight dollars ($168.00)~~ biennially. Any new pharmacy practice site to be opened or established, or any change in location, name or ownership of any existing pharmacy practice site, shall before active operation obtain a license from the Board of Pharmacy and shall pay a fee of three-hundred dollars ($300.00)~~one hundred sixty eight dollars ($168.00).~~

(6) All manufacturers and wholesalers/distributors of prescription drugs and devices and related materials doing business in the state of Tennessee must be licensed by the Board of Pharmacy by paying a registration fee of five-hundred twenty-five dollars ($525.00)~~four hundred eight dollars ($408.00)~~, and thereafter a biennial renewal fee of five-hundred twenty-five dollars ($525.00)~~four hundred eight dollars ($408.00).~~

(7) The fee for the Board of Pharmacy's publication of Pharmacy Drug Laws, Rules and Regulations shall be an amount which covers the cost of publication and shipping, as determined by the Board of Pharmacy. ~~The fee for the board's publication of Pharmacy Drug Laws, Rules and Regulations shall be ten dollars ($10.00).~~

(8) The charge for a roster of Tennessee pharmacies, pharmacists and printing of mailing labels of Tennessee pharmacies and pharmacists shall be determined by the administration of the Department of Health.~~Commerce and Insurance~~.

(9) The fee for certification of license examination grades shall be twenty five dollars ($25.00).

(10) The fee for a duplicate or revised pharmacist license wall certificate shall be twenty five dollars ($25.00).

(11) If any person fails to renew a license, such license may be reinstated upon complying with rule 1140-01-.07 and upon the payment of the appropriate renewal fee plus a penalty fee of ten dollars ($10.00) for each month or fraction thereof that payment for renewal is delinquent. In the event such renewal is not procured within six (6) months from the date on which the last renewal became delinquent, the board may refuse to issue the renewal.

(12) If any person fails to renew a license or registration certificate, such license or registration certificate may be reinstated upon complying with rule 1140-01-.07 and upon the payment of the appropriate renewal fee plus a penalty fee of ten dollars ($10.00) for each month or fraction thereof that payment for renewal is delinquent. In the event such renewal is not procured within six (6) months from the date on which the last renewal became delinquent, the board may refuse to issue the renewal.

(13) A penalty of fifty dollars ($50.00) may, in the discretion of the board, attach to each failure of a licensee or registration certificate holder to provide any required notice to the director as may be required by the rules of the board.

(Rule 1140-01-.10, continued)

(14) Any licensee who wishes to modify the terms or conditions of a license to manufacture, obtain, possess, administer or dispense a prescription drug or device or controlled substance for the purpose of scientific research, chemical analysis, instruction or training of detection animals shall file those modifications with a non-refundable fee of five dollars ($5.00).

(15) Any person who holds a license to manufacture, obtain, possess, administer or dispense a prescription drug or device or controlled substance for the purpose of scientific research, chemical analysis, instruction or training of detection animals shall pay a renewal fee of one-hundred dollars ($100.00)~~sixty dollars ($60.00)~~ biennially from the date of issuance.

(16) Any person, partnership, firm, corporation or agency owning or operating a pharmacy practice site or any other establishment licensed pursuant to this chapter, where sterile products are compounded, manufactured, prepared, propagated, repackaged, processed, stored, or distributed shall pay a registration fee of two-hundred and fifty dollars ($250.00), and thereafter a biennial renewal fee of two-hundred and fifty dollars ($250.00).

Authority: *T.C.A. §§ 4-5-202, 63-10-102(a), 63-10-216, 63-10-404(17), 63-10-504(b)(1), 63-10-504(b)(2), and 63-10-508.* ***Administrative History:*** *Original rule certified June 7, 1974. Amendment filed June 7, 1974; effective July 7, 1974. Amendment filed December 15, 1977; effective January 16, 1978. Amendment filed September 26, 1978; effective December 29, 1978. Repeal and new rule file February 7, 1983; effective March 9, 1983. Amendment filed May 23, 1986; effective August 12, 1986. Amendment filed January 26, 1987; effective April 29, 1987. Amendment filed October 1, 1987; effective January 27, 1988. Amendment filed November 18, 1989; effective February 28, 1989. Amendment filed October 18, 1990; effective January 29, 1991. Amendment filed May 3, 1991; effective August 28, 1991. Amendment filed December 22, 1992; effective March 31, 1993. Amendment filed June 25, 1993; effective September 28, 1993. Amendment filed October 19, 1996; effective February 28, 1996. Repeal and new rule filed May 11, 1998; effective July 25, 1998. Amendment filed August 19, 2002; effective November 2, 2002.*

1140-01-.11 CONTROLLED SUBSTANCE REGISTRATION.

No licensee may obtain, possess, administer, dispense, distribute, or manufacture any controlled substance in this state, and no representative of a manufacturer or wholesaler/distributor may distribute any controlled substance in this state, without obtaining a controlled substance registration from the board. Application for such registration shall be submitted on a form prescribed by the board, and shall be accompanied by a fee of forty dollars ($40.00) and thereafter a biennial renewal fee of forty dollars ($40.00).

Authority: *T.C.A. §§ 53-10-303, 63-10-102(a), 63-10-404(6), 63-10-504(b)(1), 63-10-504(b)(1) and (2), and 63-10-508.* ***Administrative History:*** *Original rule filed October 30, 1991; effective December 14, 1991. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.12 STERILE PRODUCT REGISTRATION

(1) No licensee may compound, manufacture, prepare, propagate, or process any sterile product to be dispensed, sold, traded, or otherwise distributed in or from this state without first obtaining a sterile compounding modifier registration from the Board of Pharmacy.

(2) A registration modifier to compound and dispense sterile products into or from this state may be suspended by the Board of Pharmacy, upon information that the registrant has:

(a) Knowingly furnished false or fraudulent material information in any application filed before the Board of Pharmacy; or

(Rule 1140-01-.12, continued)

(b) Been convicted of a felony under any state or federal law relating to drugs or to the practice of pharmacy; or

(c) Had any of its licenses, permits, or registrations granted by the Food and Drug Administration (FDA), the Drug Enforcement Administration (DEA), the Department of Health and Human Services (DHHS), or any other federal agency or subdivision thereof, suspended, revoked, or voluntarily surrendered; or

(d) Been enjoined from operation by the court of any state or a federal court; or

(e) Been identified by the Commissioner of Health or the Commissioner's designee, the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), or an investigator of the Board of Pharmacy as a source of adulterated, misbranded, or otherwise unsafe sterile products which have been, or pose an imminent risk of being dispensed, sold, traded, or otherwise distributed.

(3) An order of suspension issued by the Board of Pharmacy may contain additional directives or requirements necessary to protect public health, safety and welfare, including but not limited to:

(a) The quarantine or disposal of any sterile product compounded, manufactured, prepared, propagated or processed at the facility.

(b) The initiation of a recall of any sterile product compounded, manufactured, prepared, propagated or processed at the facility where such products or any label, container, packaging, or dosage form associated with such products may be adulterated, misbranded, contaminated, or otherwise unsafe.

(c) An order of suspension issued by the Board of Pharmacy may contain exceptions or allowances necessary to protect individual patients or the public health.

(4) Any order of suspension issued by the Board of Pharmacy pursuant to this chapter shall follow the procedures required by the Uniform Administrative Procedures Act, including those procedures required by T.C.A. § 4-5-320(d) where appropriate.

1140-01-.13 ~~1140-01-.12~~ STANDARDS FOR PHARMACIES AND PRESCRIPTION DEPARTMENT SECURITY.

A license to operate a new or remodeled pharmacy practice site, or an existing pharmacy practice site which changes location or ownership, will not be issued unless the pharmacy practice site meets the following standards.

(1) The pharmacy practice site and equipment therein shall be maintained in a clean, sanitary, orderly and well-lighted condition, and all persons working in the pharmacy practice site shall be required to keep themselves and their apparel in a clean and sanitary condition.

(2) All new or relocated pharmacies opening after July 1, 1998 shall provide a consultation area which offers sufficient privacy to the patient before a license will be issued. All existing pharmacies shall be in compliance with this requirement on or before January 1, 2000.

(Rule 1140-01-.12, continued)

(3) The prescription department at the pharmacy practice site shall meet the following standards.

(a) The department shall have necessary counters and storage space.

(b) The department shall have a representative stock of prescription drugs and devices and related materials sufficient to compound and dispense medical and prescription orders as indicated by experience.

(c) The department shall have the apparatus and equipment needed to compound and dispense medical and prescription orders properly.

(d) The department shall occupy a space of not less than one hundred eighty (180) square feet.

(e) The department shall have hot and cold running water and immediate area refrigeration.

(f) The department shall have a physical barrier sufficient to protect against unauthorized entry and pilferage of prescription drugs and devices and related materials.

(g) Keys or other access devices to the physical barriers shall be subject to the following standards.

1. Only pharmacists practicing at the pharmacy and pharmacists authorized by the pharmacist in charge shall be in possession of any keys or other access devices.

2. The pharmacist in charge shall place a key or other access device in a sealed envelope bearing the signature of the pharmacist in charge affixed across the seal and placed in a safe or vault in a secured place outside of the department. The key or access device may be used to allow emergency entrance to the department.

(h) Access to the department is restricted to pharmacists, pharmacy interns and pharmacy technicians who are practicing at the pharmacy. Other persons designated by the pharmacist in charge may be allowed access but only during hours that a pharmacist is on duty.

(i) Notwithstanding any rule or regulation to the contrary, a pharmacy which was established before June 6, 1945, and which serves food, and which has continuously had a soda fountain, may allow a customer to go through the pharmacy area to the restroom, and not be required to have a gate or door to separate the pharmacy from the restroom or other parts of the establishment.

(4) All licenses and certificates of registration for a pharmacy practice site shall at all times be conspicuously displayed at the practice site.

(5) If a pharmacy practice site is located in a mercantile establishment (such as a discount store, grocery store, department store, or other similar establishment), then such pharmacy practice site shall be:

(a) open for business during the same hours as the mercantile establishment, unless the pharmacy practice site is capable of being closed-off by physical barrier from floor to ceiling; and

(b) under the supervision of a pharmacist at all times; except as provided in rule 1140-03-.07.

(Rule 1140-01-.12, continued)

(6) The pharmacist shall not at any time be denied access to the prescription department of a pharmacy practice site located in a mercantile establishment; provided, however, that entry of the pharmacist at times when the pharmacy is closed to the public may be subject to reasonable and prudent conditions.

(7) A pharmacy practice site where prescription drugs and devices and related materials are received, stored, compounded and dispensed shall not be opened for business or any other reason unless a licensed pharmacist is present. Furthermore, no medical or prescription order shall be dispensed except during the presence and under the direct supervision of a pharmacist.

(8) Nothing in this rule applies to a pharmacy practice site or prescription department operating in an institutional facility.

(9) In cases of practical difficulty or undue hardship, the board may permit exceptions to the standards specified in this rule.

Authority: *T.C.A. §§ 63-10-404(28), 63-10-504(b)(1), and 63-10-504(b)(1) and (2).* ***Administrative History:*** *Original rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.14 ~~1140-01-.13~~ STANDARDS FOR MANUFACTURERS AND WHOLESALERS/DISTRIBUTORS.

No license to operate a new or remodeled manufacturer or wholesaler/distributor location within the state of Tennessee, or an existing manufacturer or wholesaler/distributor location which changes location or ownership, will be issued unless the manufacturer or wholesaler/distributor meets the standards set forth in Chapter 1140-09 of the rules of the Board of Pharmacy.

Authority: *T.C.A. §§ 63-10-404(18) and (37), and 63-10-504(b)(1).* ***Administrative History:*** *Original rule filed May 11, 1998; effective July 25, 1998.*

1140-01-.15 ~~1140-01-.14~~ PRESCRIPTION DRUGS DISPENSED BY HEALTH DEPARTMENTS.

For purposes of *T.C.A. § 63-10-405*, the following drugs are hereby approved as not subject to abuse:

(1) Tuberculosis Control Agents:

(a) Capreomycin Injection
(b) Cycloserine Capsules
(c) Ethambutol Tablets
(d) Ethionamide Tablets
(e) Isoniazid Tablets
(f) Para-Aminosalicyclate Tablets
(g) Pyrazinamide Tablets
(h) Rifampin Capsules
(i) Streptomycin Injection
(j) Tuberculin Skin Test (Mantoux only)
(k) Rifampin/Isoniazid
(l) Ofloxacin
(m) Rifampin-isoniazid-pyrazinamide

(2) Venereal Disease Control Agents:

(a) Ampicillin Capsules
(b) Doxycycline Capsules

(Rule 1140-01-.14, continued)

(c) Erythromycin Tablets
(d) Penicillin

1. Benzathine Penicillin G Injection
2. Procaine Penicillin G Injection

(e) Probenecid Tablets
(f) Spectinomycin Injection
(g) Tetracycline Capsules
(h) Ceftriaxone
(i) Ciprofloxacin
(j) Lidocaine Injection
(k) Azithromycin
(l) Acyclovir Tablets, Ointments
(m) Trichloroacetic Acid
(n) Salicylic Acid
(o) Podophyllin/Salicylic Acid
(p) Aldara (Imiquimod)

(3) Biologicals/Immunizations:

(a) Antiserums
(b) Antitoxins
(c) Immune Serum Globulin
(d) Toxoids
(e) Vaccines
(f) Antigens

(4) Reproductive Health Agents:

(a) Metronidazole Tablets
(b) Oral Contraceptives
(c) Podophyllin
(d) Prenatal Vitamins
(e) Triple Sulfa Vaginal Cream/Tabs
(f) Vaginal Antifungal Cream/Tabs

1. Clotrimazole
2. Miconazole
3. Nystatin
4. Terconazole (Terazole)

(g) Amino-Cerv
(h) Nitrofurantoin
(i) Ibuprofen, 600 mg Tablets
(j) Metronidazole (vaginal jell)
(k) Fluconazole Tablets
(l) Clindamycin Vaginal Cream
(m) Premarin Tablets (for use in estrogen trials for the evaluation of atypical cells in certain inflammatory atrophic pap smears)
(n) Medroxyprogesterone Acetate Injectable (Depo Provera®)
(o) Norelgestromin/ethinyl estradiol transdermal system (Ortho Evra®)

(p) Etonogestrel/ethinyl estradiol vaginal ring (Nuvaring®)

(5) Child Health Agents:

(Rule 1140-01-.14, continued)

(a) Fluoride Tablets and Drops
(b) Lindane Cream, Lotion, Shampoo
(c) Mebendazole Tablets
(d) Pyrantel Pamoate Liquid
(e) Sulfadiazine Tablets
(f) Trimethoprim and Sulfamethoxazole
(g) Permethrin
(h) Crotamiton
(i) Nystatin Oral Suspension
(j) Nystatin Triamcinolone Cream
(k) Ibuprofen, Suspension Liquid

(6) Emergency Agents:

(a) Aminophylline Injection
(b) Benztropine Injection
(c) Diphenhydramine Injection
(d) Epinephrine Injection
(e) Glucagon Injection
(f) Hydralazine Injection
(g) Hydrocortisone Sodium Succinate
(h) Insulin, Regular
(i) Intravenous Fluids
(j) Oxygen
(k) Phenylephrine Injection
(l) Sodium Bicarbonate Injection
(m) Atropine Injection
(n) Nitroglycerin Sublingual Tablets
(o) Dexamethasone Injection
(p) Norepinephrine

(7) Antihypertensive Agents:

(a) Methyldopa
(b) Reserpine
(c) Hydrochlorothiazide
(d) Hydralazine
(e) Propranolol
(f) Potassium Supplements
(g) Nicotine Patches

Authority: *T.C.A. §§ 63-10-404(14), 63-10-205, 63-10-304, 63-10-304(b)(1), 63-10-405, 63-10-504(b), 63-10-504(b)(1), and 63-10-504(b)(2).* ***Administrative History:*** *Original rule filed May 11, 1998; effective July 25, 1998. Amendment filed August 19, 2002; effective November 2, 2002. Amendment filed November 24, 2008; effective February 7, 2009. Amendment filed December 23, 2009; effective March 23, 2010.*

(Rule 1140-7-.06, continued)

RULES
OF
THE TENNESSEE BOARD OF PHARMACY

CHAPTER 1140-7
STERILE PRODUCT PREPARATION IN PHARMACY PRACTICE

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1140-7-.01 APPLICABILITY.

The provisions of this Chapter shall apply to all pharmacy practice sites and pharmacists, pharmacy interns, pharmacy technicians and supportive personnel involved in the compounding and dispensing of sterile products.

***Authority**: T.C.A. § 63-10-404(4),(11),(26),(28),(29),(30), § 63-10-504(b)(1),(2). **Administrative History:** Original chapter filed October 1, 1987; effective November 15, 1987. Amendment filed March 30, 1994; effective June 13, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.02 STANDARDS

(1) All sterile products shall be prepared in compliance with applicable USP standards for pharmaceutical compounding.

(2) The Board of Pharmacy, upon a showing of good cause and in the best interest of the public health, safety and welfare, may waive the requirements of any applicable portion of USP standards.

(a) All waiver requests submitted pursuant to this part shall be submitted in writing.

(b) The Board of Pharmacy may authorize the Executive Director to exercise some, or all, of its waiver authority under this part.

(3) Noncompliance by a licensee with applicable standards and guidelines, or any other violation of the provisions of this rule shall be considered unprofessional conduct within the meaning of T.C.A. 63-10-305 and a violation of a duly promulgated rule of the Board of Pharmacy.

(4) Any licensed pharmacy which compounds sterile products, except hospital pharmacies compounding for inpatients of a hospital, shall submit to the Board of Pharmacy, on a quarterly basis, a report listing the quantity of high risk or batch sterile products, as defined by USP standards, compounded and dispensed during the previous quarterly period and any other information as required by USP standards.

(a) Quarterly reports submitted pursuant to this paragraph shall be submitted by the 15th day of the month following the end of each calendar quarter.

(b) In any calendar year where any one of the above dates fall on a weekend or official state holiday, all quarterly reports due on that date shall be submitted on the following business day.

(c) The format for reports submitted pursuant to this paragraph shall be determined by the Board of Pharmacy through policy and made available to the public on the Board of Pharmacy's website.

(5) Any licensed pharmacy which compounds and dispenses sterile products shall provide at a minimum upon request of the Board of Pharmacy the following information for any sterile drug product compounded, dispensed, traded, sold, or otherwise distributed:

(a) name, strength, and dosage form;

(b) quantity compounded, dispensed, traded, sold, or otherwise distributed during the preceding quarterly period;

(c) all components and an accurate statement of the weight or measure of each component;

(d) the beyond-use date;

(e) storage requirements;

(f) labels and labeling with appropriate beyond-use date and instructions for storage and use.

(6) Any licensed pharmacy which compounds and dispenses sterile products must ensure that the following information is on file at the practice site and readily accessible for sterile products:

(a) documentation of the name and strength of all drug products compounded over the past two (2) years;

(b) the sources and lot numbers of the components used in those drug products;

(c) the total number of dosage units compounded over the past two (2) years;

(d) the name of the person who prepared the drug product;

(e) the name of the pharmacist who approved the drug product;

(f) the name of the practitioner or the name of the patient or healthcare entity who received the compounded drug product;

(g) the results of any sampling, testing or other quantitative evaluation conducted for the purposes of quality control for any sterile compounded products, as defined by chapter 1140-01, compounded over the past two (2) years.

1140-07-.03 ~~1140-7-.02~~ PERSONNEL.

(1) The pharmacist in charge or pharmacist designee shall be responsible for, at a minimum, the following:

(a) Procurement, storage, compounding, labeling, repackaging, dispensing, and distribution of all prescription drugs and devices and related materials necessary in compounding and dispensing sterile products;

(b) Establishment of policies and procedures for the compounding and dispensing of sterile products;

(c) Documentation of competency in aseptic techniques of all pharmacists, pharmacy interns and pharmacy technicians. The aseptic technique of each person compounding and dispensing sterile products shall be observed and evaluated as satisfactory during orientation and training and at least on an annual basis or whenever unacceptable techniques are observed or detected;

(d) Establishment of a quality assurance program;

(e) Reviewing and updating annually all policies and procedures; and

(f) Provision of sterile products on a twenty four (24) hour a day basis.

(2) All pharmacists, pharmacy interns and pharmacy technicians as defined in 1140-2-.02 responsible for compounding or dispensing sterile products shall:

(a) Obtain practical and/or academic training in the compounding and dispensing of sterile products;

(b) Complete annual continuing education related to sterile product compounding and dispensing and utilization; and

(c) Maintain, in the pharmacy practice site, documentation of completion of the required training and continuing education.

(d) Use proper aseptic technique in all sterile product compounding as defined by the pharmacy practice site's policies and procedures.

(3) A pharmacist shall be available to respond to patients' and other health care practitioners' information needs on a twenty four (24) hour a day basis.

(4) The pharmacist in charge shall be assisted by such additional pharmacists, pharmacy interns, pharmacy technicians as defined by 1140-2-.02 and supportive personnel necessary to operate the pharmacy practice site competently and safely and to provide services in a timely and appropriate manner.

(5) All pharmacists, pharmacy interns and pharmacy technicians must be qualified through an appropriate combination of specific training and experience to operate or manipulate any item of equipment, apparatus, or device to which such pharmacists, interns and technicians will be assigned to use to compound and dispense sterile products.

(6) A written record of initial and subsequent training and competency evaluations shall be maintained in the pharmacy practice site and contain the following information:

(a) Name of the person receiving the training or evaluation;
(b) Date(s) of the training or evaluation;
(c) General description of the topics covered; and
(d) Signature of the person receiving the training or evaluation and the pharmacist in charge or pharmacist designee of the pharmacist in charge.

***Authority**: T.C.A. § 63-10-404(4),(5),(8),(11),(14),(16),(26),(27),(29),(30), §63-10-504(b)(1),(2). **Administrative History:** Original chapter filed October 1, 1987; effective November 15, 1987. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.04 ~~1140-7-.03~~ PHYSICAL REQUIREMENTS.

(1) Any facility that compounds sterile products shall comply with applicable USP standards.

~~Board of Pharmacyparagraph.~~

~~(1) Area, Equipment and Materials.~~

~~(a) 1. The sterile product compounding area shall be enclosed from other pharmacy practice site operations in order to minimize the potential for sterile product contamination.~~

~~2. This area shall be designed as a limited access area to avoid unnecessary traffic and airflow disturbances.~~

~~3. The enclosure of the sterile product compounding area may be achieved through the utilization of partitions, plastic curtains, or similar washable solid surface dividers.~~

~~4. Entrances to the sterile product compounding area must contribute to the enclosure.~~

~~5. Materials utilized to define the enclosure must extend from the floor to a minimum of the top of the hood.~~

~~6. All surfaces of the sterile product compounding area shall be washable, non carpeted, and low particulate generating.~~

~~7. No new construction or remodeling will be approved that is not either:~~

~~(i) Fully enclosed as noted in paragraphs (3), (4) and (5) above; or~~

~~(ii) Has documented engineering studies validating that air flow in a partially opened design creates an atmosphere that is equal to a fully enclosed design.~~

~~(b) For hand washing a sink with hot and cold running water shall be located in or adjacent to the area where sterile products are compounded.~~

~~(c) There shall be appropriate refrigeration for storing supplies and sterile products requiring refrigeration after being prepared and before being dispensed or administered to patients.~~

~~1. Documentation of refrigeration integrity shall be maintained in accordance with the pharmacy practice site's policies and procedures.~~

~~(d) The storage of prescription drugs and devices and related materials shall be under appropriate conditions (e.g., controlled temperature, well lighted, dry, clean, secure, and well ventilated).~~

~~1. Prescription drugs and devices and related materials shall not be stored in the sterile product compounding area in shipping containers (e.g., corrugated cardboard or other high particulate producing containers).~~

~~2. After removal from shipping containers, unit packaging will be acceptable for storage in the sterile product compounding area.~~

~~(e) All sterile product compounding must be performed within a Class 100 laminar flow hood, biologic safety cabinet (Class II, Type A) or within a Class 100 clean room.~~

~~(f) Laminar flow hoods, biologic safety cabinets (Class II, Type A) and Class 100 clean rooms shall be certified according to current federal standards for operational efficiency at least semi-annually.~~

~~(g) The laminar flow hood, biologic safety cabinet (Class II, Type A) or Class 100 clean room shall be kept running continuously; however, if the hood is turned off, the hood shall be functioning at least thirty (30) minutes before being used to compound sterile products, or according to recommendations of the manufacturer to achieve appropriate air velocity and a complete cleaning of the inside works before being used to compound sterile products.~~

~~(h) The sterile product compounding area shall be adequately ventilated so as not to interfere with laminar flow hood conditions and be used only for the compounding of sterile products.~~

~~(i) Prefilters in laminar flow hoods shall be changed at least quarterly and a written record of such change shall be maintained.~~

~~(j) The storage of prescription drugs, devices and related materials outside of the pharmacy shall be supervised and approved by the pharmacist in charge and inspected monthly to ensure that the products' safe storage is being maintained. These inspections shall be in accordance with rule 1140-4-.18.~~ ~~***Authority:*** *T.C.A. § 63-10-404(4),(8),(14), § 63-10-504(b)(1),(2).* ***Administrative History:*** *Original chapter filed October 1, 1987; effective November 15, 1987. Amendment filed March 30, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*~~

1140-07-.05 ~~1140-7-.04~~ POLICY AND PROCEDURE MANUAL.

(1) A policy and procedure manual related to sterile product compounding shall be available for inspection at the pharmacy practice site. The manual shall include policies and procedures for sterile compounding pursuant to USP standards, and shall, at a minimum, include:

(a) security;
(b) equipment;
(c) sanitation;
(d) reference materials;
(e) prescription drug and device and related material storage;
(f) prescription drug and device and related material compounding and dispensing;
(g) prescription drug and device and related material labeling and relabeling;
(h) prescription drug and device and related material destruction and returns;
(i) dispensing of sterile products;
(j) record keeping;
(k) quality assurance;
(l) quality control;
(m) duties for pharmacist(s), pharmacy intern(s), pharmacy technician(s) and supportive personnel;
(n) public safety relative to harmful sterile products, including the active notification of patients if they may be affected by a product found to have a defect or an out-of-specification result including any recall policy and procedures;
(o) attire; ~~and~~
(p) pharmacist, pharmacy intern, and pharmacy technician training.
(q) compliance with all applicable USP standards; and

(r) response to adverse events, outbreaks, and other public health threats associated with products compounded, dispensed, manufactured, propagated, distributed, or otherwise processed at the facility, including procedures for the rapid compilation and dissemination of records to appropriate authorities.

(2) Any licensed facility which engages in sterile compounding shall conduct an annual review of its policy and procedure manual, and shall update its policy and procedure manual as necessary.

(3) Failure by any licensee or registrant to comply with its policy and procedure manual, or any part of this rule shall be considered a violation of a duly promulgated rule of the Board of Pharmacy and may be considered dishonorable, immoral, unethical or unprofessional conduct within the meaning of T.C.A. § 63-10-305(6).

***Authority**: T.C.A. § 63-10-404(4),(8),(14),(26),(29),(30), § 63-10-504(b)(1),(2). **Administrative History:** Original rule filed October 1, 1987; effective November 15, 1987. Amendment filed November 16, 1992; effective January 8, 1993. Amendment filed March 30, 1994; effective June 13, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.06 ~~1140-7-.05~~ LABELING.

(1) At the time of dispensing of the sterile product, the dispensing container must bear a label which contains the following information:

(a) patient's name (if for outpatient use) or healthcare entity name;
(b) prescriber (s) name (if for outpatient use);
(c) pharmacy practice site name, address, and phone number (if for outpatient use);
(d) identification of the pharmacist who compounded the sterile product;
(e) when applicable, identification of the pharmacy intern or pharmacy technician who assisted in the compounding of the sterile product;
(f) name and amount of drug added;
(g) expiration date and, when applicable, expiration time, Beyond Use Dating (BUD);
(h) date of compounding;
(i) appropriate auxiliary label(s); and
(j) directions for use (if for outpatient), if applicable.

(2) Original medical or prescription orders for sterile products shall comply with applicable state and federal laws and regulations.

***Authority**: T.C.A. §63-10-404(11),(14),(19),(26),(28),(29),(30),(32),(34), §63-10-504(b(1),(2). **Administrative History:** Original chapter filed October 1, 1987; effective November 15, 1987. Amendment filed March 30, 1994; effective June 13, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.07 ~~1140-7-.06~~ HAZARDOUS PRODUCTS.

(1) Physical Requirements.

(a) If the pharmacy practice site is engaged in the compounding of hazardous sterile products, a suitable facility to prepare such products and minimize the risk associated with such products shall be provided.

(b) Such pharmacy practice site shall be designed and equipped for storage and have a procedure for disposal of materials containing hazardous residues in accordance with state and federal laws.

(1) A dedicated Class II, Type A contained vertical flow biohazard cabinet is the minimally acceptable compounding site for the routine compounding of hazardous sterile products.

(2) Hazardous sterile products shall be segregated within the pharmacy practice site and storage areas so identified.

(2) Dispensing.

(a) Prepared doses of hazardous sterile products for patients shall be placed in an appropriate outer wrap to minimize the risk exposure in case of accidental rupture of the primary container.

(b) Reasonable effort shall be made to assure that all hazardous sterile product primary containers and waste are removed from the site of use and disposed of as hazardous waste in accordance with applicable state and federal laws.

(3) Training.

(a) As part of the training for all pharmacists, pharmacy interns and pharmacy technicians involved in compounding of hazardous sterile products, an annual certification must be made by each pharmacist, pharmacy intern and pharmacy technician and the pharmacist in charge that each has read and understands the latest editions of:

1. Work Practice Guidelines for Personnel Dealing with Cytotoxic (Antineoplastic) Drugs (Occupational); and

2. The American Society of Health-System Pharmacists (ASHP) technical assistance bulletin on handling cytotoxic and hazardous substances.

(4) Hazardous sterile products dispensed shall bear a distinctive warning label with an appropriate caution statement thereon.

(5) Gloving and gowning shall be required in the compounding of hazardous sterile products. Gloves should be rinsed frequently with a sanitizing agent (e.g., seventy percent (70%) isopropyl alcohol) and shall be changed when the integrity of the gloves is compromised.

(6) In the compounding of hazardous sterile products, a protective disposable gown made of lint-free low permeability fabric with a closed front, long sleeves and elastic or knit closed cuffs with cuffs tucked under the gloves shall be worn. Gowns and gloves used in the compounding of hazardous sterile products shall not be worn outside the sterile product compounding area.

Authority: *T.C.A. § 63-10-404(4),(11),(26),(27),(28),(29),(30), § 63-10-504(b)(1),(2).* ***Administrative History:*** *Original chapter filed October 1, 1987; effective November 15, 1987. Amendment filed March 30, 1994; effective June 13, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.08 ~~1140-7-.07~~ ATTIRE.

(1) All pharmacists, pharmacy interns and pharmacy technicians shall wear applicable outer garments and shall use applicable respiratory precautions as set out in USP 797. ~~clean garments that generate low levels of particulate. Concerning clothing worn in a sterile product compounding area with a laminar flow hood or biologic safety cabinet (Class II, Type A), one (1) of the following must apply:~~

~~(a) Upon entering the sterile product compounding area, pharmacists, pharmacy interns and pharmacy technicians shall don an outer garment that generates a low level of particulate (e.g.,~~

~~clean laboratory jacket, disposable gown) before compounding sterile products. Upon leaving the sterile product compounding area, this outer garment shall be disposed of or left at the entrance of the sterile product compounding area and donned when re-entering the area.~~

~~(b) If scrubs or site specific clothing are donned for work in the sterile product compounding area, a laboratory jacket or outer covering shall be worn while outside the sterile product compounding area in order to protect the scrubs or site specific clothing from cross contamination. Upon entering the sterile product compounding area the lab jacket or outer covering shall be removed before compounding sterile products.~~

~~(2) All pharmacists, pharmacy interns and pharmacy technicians with respiratory conditions that may result in contamination of sterile products shall wear a mask.~~

~~(3) For the compounding of sterile products prior to receipt of specific medical or prescription orders and when the anticipated dispensing time may be greater than twenty eight (28) hours after preparation; clean, low particulate outer garments and gloves shall be required. Hair cover and a mask shall be required, unless a biologic safety cabinet (Class II, Type A) is utilized.~~

~~(4) If utilizing a Class 100 clean room without a laminar flow hood, the attire shall include a jumpsuit or surgical scrubs and head coverings that generate low levels of particulate, mask, shoe covers, and gloves.~~

~~(5) Attire specific to the compounding of hazardous sterile products is explained in rule 1140-7-.06.~~

Authority: *T.C.A. § 63-10-404(4),(26),(29),(30), § 63-10-504(b)(1),(2).* ***Administrative History:*** *Original chapter filed October 1, 1987; effective November 15, 1987. Amendment filed March 30, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-07-.09 ~~1140-7-.08~~ QUALITY ASSURANCE.

(1) There shall be a documented, ongoing quality assurance program that monitors process validation; pharmacist(s), pharmacy intern(s), and pharmacy technician(s) performance; equipment; and environment.

(2) The program shall be designed to assure that the pharmacy practice site is capable of consistently compounding quality sterile products.

(3) All quality assurance programs shall follow applicable USP standards.

(4) As part of its quality assurance program, any licensed facility which engages in sterile compounding shall perform a gap analysis pursuant to guidelines adopted by the Board of Pharmacy. Any exceptions or serious deficiencies noted in this analysis shall be reported to the Board of Pharmacy.

(5) Failure by any licensee or registrant to comply with its quality assurance program shall be considered a violation of a duly promulgated rule of the Board of Pharmacy and may be considered dishonorable, immoral, unethical or unprofessional conduct within the meaning of T.C.A. § 63-10-305(6).

Authority: *T. C.A. § 63-10-404(26),(28),(29),(30), § 63-10-504(b)(1),(2).* ***Administrative History:*** *Original chapter filed March 30, 1994; effective June 13, 1994. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

(Rule 1140-9-.05, continued)

RULES
OF
THE TENNESSEE BOARD OF PHARMACY

CHAPTER 1140-9
MANUFACTURERS AND WHOLESALERS/DISTRIBUTORS

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1140-09-.01 MANUFACTURER AND WHOLESALER/DISTRIBUTOR LICENSING.

(1) Every manufacturer or wholesaler/distributor, before engaging in the manufacture, sale or distribution of prescription drugs and prescription devices in this state, must be licensed by the Board in accordance with this chapter.

(2) An applicant with physical facilities in this state must obtain and display prominently a separate license for each principal place of business where the applicant manufactures or distributes prescription drugs and prescription devices.

(3) The requirement of a license shall not apply to the following types of distributions:

(a) Intracompany sales;

(b) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(c) The sale, purchase or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(d) The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control; for purposes of this subparagraph, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization whether by ownership of stock, voting rights, by contract or otherwise;

(e) The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons; for purpose of this subparagraph, "emergency medical reasons" includes transfers of prescription drugs by a pharmacy practice site to alleviate a temporary shortage.

(f) The sale, purchase, or trade of a prescription drug, an offer to sell, purchase or trade a prescription drug, or the dispensing of a prescription drug pursuant to a medical or prescription order;

(g) The distribution of prescription drug samples by manufacturers' representatives; or

(h) The sale, purchase, or trade of blood and blood components intended for transfusion.

1. The sale, purchase, or trade of a prescription drug, or an offer to sell, purchase or trade of a prescription drug by a pharmacy practice site to another pharmacy practice site or to authorized prescribing practitioners, except that the total gross dollar volume of such transfers shall not exceed five percent (5%) of the total medical and prescription orders sales revenue of either the transferor or transferee pharmacy during any twelve (12) consecutive month period.

***Authority**: T.C.A. § 63-10-404(2),(8),(14),(18),(37), § 63-10-504(b)(1), § 63-10-506(f). **Administrative History:** Original rule filed January 7, 1992; effective February 21, 1992. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-09-.02 MINIMUM INFORMATION REQUIRED.

(1) The board shall require the following minimum information from each manufacturer or wholesaler/distributor applying for a license or any renewal of such license:

(a) The name, full business address, and telephone number of the manufacturer or wholesaler/distributor;

(b) All trade or business names used by the manufacturer or wholesaler/distributor;

(c) Addresses, telephone numbers, and the names of contact persons for all facilities used by the manufacturer or wholesaler/distributor for storage, handling, and distribution;

(d) The type of ownership or operation (i.e., partnership, corporation, or sole proprietorship); and

(e) The name(s) of the owner and/or operator of the manufacturer or wholesaler/distributor, including:

1. If a person, the name of the person;

2. If a partnership, the name of each partner, and the name of the partnership;

3. If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation;

4. If a sole proprietorship, the full name of the sole proprietor and the name of the business entity; ~~and~~

5. DEA registration number if applicable~~.~~; and

6. The results of a criminal background check for the owner or manager of the facility seeking licensure, submitted directly to the Board of Pharmacy by the vendor identified in the Board of Pharmacy's licensure application materials.

(2) Applicants seeking to register as manufacturers shall provide the following materials to the Board of Pharmacy:

(a) Proof of registration with the Food and Drug Administration as a manufacturer and the most current inspection by that agency, or correspondence or other written proof

from the Food and Drug Administration which states that registration with that agency is unnecessary;

(b) The name and contact information of the owner, the owner's agent, or another such individual employed at or contracted by the applicant that can be reached at any time by the Board of Pharmacy, the Department of Health or any agents thereof in the event of a potential or actual public health threat related to the sterility or potency of any drug or biologic product manufactured, wholesaled or distributed by the applicant.

(3) Applicants seeking to register as sterile manufacturers shall provide the following materials to the Board of Pharmacy:

(a) Upon request by the Board of Pharmacy or the executive director, a list of sterile products currently being manufactured, wholesaled and distributed;

(b) The name and contact information for any laboratory, corporation, or other organization that may perform sterility and potency testing, or similar procedures for the purposes of quality assurance on any drug or biologic product produced by the applicant;

(4) Changes in any information in paragraphs (1), (2), or (3) of this rule shall be submitted in writing to the Board of Pharmacy immediately.

Authority: *T.C.A. § 63-10-404(2),(18),(37), § 63-10-504(b)(1), § 63-10-506(f).* ***Administrative History:*** *Original rule filed January 7, 1992; effective February 21, 1992. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-9-.03 MINIMUM QUALIFICATIONS.

(1) The board shall consider, at a minimum, the following factors in reviewing an application for a license as a manufacturer or wholesaler/distributor:

(a) Any convictions of the applicant under any federal, state, or local laws relating to drug samples or distribution of controlled substances;

(b) Any felony convictions of the applicant under federal, state, or local laws;

(c) The applicant's past experience in the manufacturing or distribution of prescription drugs and prescription devices, including controlled substances;

(d) The furnishing by the applicant of false or fraudulent material in any application made in connection with manufacturing or distribution;

(e) Suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances, prescription drugs and prescription devices;

(f) Compliance with licensing requirements under previously granted licenses, if any;

(g) Compliance with requirements to maintain and/or make available to the board or to federal, state, or local law enforcement officials those records required federal, state or local laws; and

(h) Any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

(2) The board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be in the public interest.

Authority: *T.C.A. § 63-10-404(2),(6),(8),(14),(18),(37), § 63-10-504(b)(1).* ***Administrative History:*** *Original rule filed January 7, 1992 effective February 21, 1992. Repeal and new rule filed May 11, 1999, effective July 25, 1998.*

1140-9-.04 PERSONNEL.

The board shall require that personnel employed by a manufacturer or wholesaler/distributor have appropriate education and/or experience to assume positions of responsibility for compliance with board requirements.

Authority: *T.C.A. § 63-10-404(2),(18),(37), § 63-10-504(b)(1).* ***Administrative History:*** *Original rule filed January 7, 1992 effective February 21, 1992. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-09-.05 MINIMUM REQUIREMENTS FOR GENERAL OPERATION.

The following shall be the minimum requirements for the storage and handling of prescription drugs and prescription devices and for the establishment and maintenance of prescription drug and prescription device distribution records by manufacturers and wholesalers/distributors:

(1) Facilities. All facilities at which prescription drugs and prescription devices are stored, warehoused, handled, held, offered, marketed, or displayed shall:

(a) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(b) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(c) Have a quarantine area for storage of prescription drugs and prescription devices that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(d) Be maintained in a clean and orderly condition, and

(e) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(2) Security.

(a) All facilities shall be secure from unauthorized entry.

1. Access from outside the premises shall be kept to a minimum and be well-controlled.

2. The outside perimeter of the premises shall be well-lighted.

3. Entry into areas where prescription drugs and prescription devices are held shall be limited to authorized personnel.

(b) All facilities shall be equipped with an alarm system to detect entry after hours.

(c) All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(3) Storage. All prescription drugs and prescription devices shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs and devices, or with requirements in the current edition of an official compendium, such as the United States Pharmacopeia/National Formulary (USP/NF).

(a) If no storage requirements are established for a prescription drug or prescription device it may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that identity, strength, quality, and purity are not adversely affected.

(b) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of prescription drugs and prescription devices.

(c) The record keeping requirements in paragraph (6) of this section shall be followed for all prescription drugs and prescription devices.

(4) Examination of materials.

(a) Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated prescription drugs that are otherwise unfit for distribution. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(b) Each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(c) The record keeping requirements in paragraph (6) of this section shall be followed for all incoming and outgoing prescription drugs.

(5) Returned, damaged, and outdated prescription drugs and prescription devices.

(a) Prescription drugs and prescription devices that are outside, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other prescription drugs and prescription devices until destroyed or returned.

(b) Any prescription drugs and prescription devices whose immediate or sealed outer or sealed secondary containers have been opened or used shall be quarantined and physically separated from other prescription drugs and prescription devices until either destroyed or returned.

(c) If the conditions under which a prescription drug or prescription device has been returned cast doubt on safety, identity, strength, quality, or purity, then the prescription drug or prescription device shall be destroyed, or returned, unless examination, testing, or other investigation proves that the prescription drug or prescription device meets appropriate standards of safety, identity, strength, quality and purity. In determining whether the conditions under which a prescription drug or prescription device has been returned cast doubt on safety, identity, strength, quality, or purity, the manufacturer or wholesaler/distributor shall consider, among other things, the conditions under which the prescription drug or prescription device has been held, stored or shipped before or during return and the condition of the prescription drug or device or related material and its container, carton, or labeling, as a result of storage or shipping.

(d) The record keeping requirements in paragraph (6) of this section shall be followed for all outdated, damaged, deteriorated, misbranded, or adulterated prescription drugs and prescription devices.

(6) Record keeping.

(a) Manufacturers and wholesalers/distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription devices. These records shall include the following information:

1. The source of the prescription drugs and prescription devices including the name and principal address of the seller or transferor, and the address of the location from which the prescription drugs and prescription devices were shipped;

2. The identity and quantity of the prescription drugs and prescription devices received and distributed or disposed of; and

3. The dates of receipt and distribution or other disposition of the prescription drugs and prescription devices.

(b) Inventories and records shall be made available for inspection and photocopying by authorized federal, state, or local law enforcement agency officials for a period of two (2) years following disposition of the prescription drugs and prescription devices.

(c) Records described in this paragraph that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two (2) working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(7) Written policies and procedures. Manufacturers and wholesalers/distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of prescription drugs and prescription devices; including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Manufacturers and wholesalers/distributors shall include in written policies and procedures the following:

(a) A procedure whereby the older approved stock of a prescription drug or prescription device is distributed first. The procedure may permit deviation from this requirement, if such deviation is temporary and appropriate.

(b) A procedure to be followed for handling recalls and withdrawals of prescription drugs and prescription devices. Such procedures shall be adequate to respond to recalls and withdrawals due to:

1. Any action initiated at the request of the United States Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the board;

2. Any voluntary action by the manufacturer or wholesaler/distributor to remove defective or potentially defective prescription drugs and prescription devices from the market; or

3. Any action undertaken to promote public health and safety by replacing of an existing product with an improved product or new package design.

(c) A procedure to ensure that manufacturers and wholesalers/distributors prepare for, protect against, and respond to any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

(d) A procedure to ensure that any outdated prescription drugs and prescription devices shall be segregated from other prescription drugs and prescription devices and either returned to the manufacturer or wholesaler/distributor or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs and prescription devices. This documentation shall be maintained for two (2) years after disposition of the outdated prescription drugs and prescription devices.

(8) Responsible persons. Manufacturers and wholesalers/distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of distribution, storage, and handling, including a description of such persons' duties and a summary of such persons' qualifications.

(9) Compliance with federal, state, and local law. Manufacturers and wholesalers/distributors shall operate in compliance with applicable federal, state, and local laws and regulations.

(a) Manufacturers and wholesalers/distributors shall permit the board and authorized federal, state, and local law enforcement officials to enter and inspect premises and delivery vehicles, and to audit records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law.

(b) Manufacturers and wholesalers/distributors that handle controlled substances shall register with the board and with the United States Drug Enforcement Administration (DEA) and shall comply with applicable state, local and DEA regulations.

(10) Salvaging and reprocessing. Manufacturers and wholesalers/distributors shall be subject to the provisions of any applicable federal, state, or local laws or regulations that relate to salvaging or reprocessing of prescription drugs and prescription devices.

Authority: *T.C.A. § 63-10-404(8),(18),(33),(37), § 63-10-504(b)(1).* ***Administrative History:*** *Original rule filed January 7, 1992 effective February 21, 1992. Repeal and new rule filed May 11, 1998; effective July 25, 1998.*

1140-09-.06 MINIMUM REQUIREMENTS FOR STERILE PRODUCT OPERATION

(1) Any manufacturer or wholesaler/distributor licensed pursuant to this chapter that also holds an active sterile compounding registration from the Board of Pharmacy and that holds a license or registration from the Federal Food and Drug Administration, shall comply with all applicable federal laws, regulations, and guidelines including, but not limited to:

(a) FDA Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs 21 CFR 210;

(b) FDA Current Good Manufacturing Practice for Finished Pharmaceuticals 21 CFR 211;

(c) DEA regulations relating to controlled substances 21 CFR 1300-99.

(2) Any manufacturer or wholesaler/distributor licensed pursuant to this chapter who also holds an active sterile compounding registration from the Board of Pharmacy and who does not hold a license or

registration from the federal Food and Drug Administration shall comply with all applicable USP standards.

(3) Any manufacturer or wholesaler/distributor licensed pursuant to this chapter who also holds an active sterile compounding registration from the Board of Pharmacy shall comply with all other applicable Board of Pharmacy rules and all other applicable laws of this State.

(4) The Board of Pharmacy may waive any applicable USP standards upon a showing by the applicant that good cause exists and that a waiver would better promote public health, safety, and welfare.

Authority: T.C.A. § 63-10-404(8),(18),(33),(37), § 63-10-504(b)(1). Administrative History: Original rule filed January 7, 1992 effective February 21, 1992. Repeal and new rule filed May 11, 1998; effective July 25, 1998.

* 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)
Charles E. (Buddy) Stephens, D.Ph.	X				
Jason Kizer, D.Ph	X				
Nina Smothers, D.Ph.				X	
Joyce McDaniel	X				
Will Bunch, D.Ph.	X				
Kevin K. Eidson, Pharm. D.	X				
R. Michael Dickenson, D.Ph.	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Pharmacy (board/commission/ other authority) on 07/07/2014 (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: *05/12/14 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *07/07/14 (mm/dd/yy)*

Date: 7/8/14

Signature:

Name of Officer: Stefan Cange

Title of Officer: Assistant General Counsel
Department of Health

Subscribed and sworn to before me on: 7-8-14

Notary Public Signature: Lamanie Mallows

My commission expires on: MY COMMISSION EXPIRES APRIL 09, 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

7-11-14
Date

Department of State Use Only

Filed with the Department of State on: 7/11/14

Effective on: 10/9/14

Tre Hargett by
Nancy Bain Travers, RDA

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION:	Doe Mountain Recreation Authority (DMRA)
DIVISION:	
SUBJECTS:	Doe Mountain Recreation Authority Fees
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 11-25-107 and 108
EFFECTIVE DATES:	October 12, 2014 through June 30, 2015
FISCAL IMPACT:	Minimal
STAFF RULE ABSTRACT:	This rulemaking amends the rule regarding the Doe Mountain Recreation Authority (DMRA) User Agreement and Fees to establish specific fees for recreational uses of Doe Mountain lands under DMRA authority and to authorize the reduction of fees for appropriate purposes. The prior rule did not contain specific fees.

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.

No comments were received.

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)

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)

This rule has no projected impact on local governments.

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Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 07-11-14
Rule ID(s): 5758
File Date: 7/14/14
Effective Date: 10/12/14

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:	Doe Mountain Recreation Authority (DMRA)
Division:	
Contact Person:	Gabrielle K. Lynch, Secretary/Treasurer
Address:	% Johnson County Mayor; 222 West Main Street; Mountain City, TN 37683
Zip:	37683
Phone:	423-739-2537
Email:	glynch@tnc.org

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**
0485-01-01	Rules of the Doe Mountain Recreation Authority
Rule Number	**Rule Title**
0485-01-01-.07	User Agreement and Fees

Redline of May 2014 DMRA Rule Amendment – New text is underlined red; deleted text is red strikethrough.

0485-01-01-.07 USER AGREEMENT AND FEES.

(1) User Agreement: All Doe Mountain Recreation Authority users must sign an Acknowledgement of Risk and have a valid Doe Mountain Recreation Authority User Agreement and photo ID in their presence at all times while on Doe Mountain Recreation Authority lands.

(2) Fees - General: The Doe Mountain Recreation Authority Board of Directors will assess fees ~~and other charges~~ to defray the costs of the Authority's responsibilities with respect to the lands under its administration and to make the Doe Mountain Recreation Authority as self-sufficient as possible. Fees may be based on the type of recreational use, including the impact of particular uses on Doe Mountain and maintenance required for specific uses.

~~(a)~~ ~~(3) Fee types: Charges may include, as determined by the Board of Directors of the Doe Mountain Recreation Authority, any of the following:~~

~~(a) Single visit entry fees or user charges;~~

~~(b) Annual fees;~~

~~(c) Fees for special activities;~~

~~(d) Fees assessed on authorized concessionaires;~~

~~(e) Parking fees; and,~~

~~(f) Such other fees or charges as the Doe Mountain Recreation Authority Board of Directors deems appropriate to accomplish the purposes of the Doe Mountain Recreation Act of 2012.~~

(3) Fees – The following specific fees will be charged per user/visitor:

(a) Off Highway Vehicle Drivers
  1. Annual Pass $60
  2. Daily Pass $18

(b) Bicycle
  1. Annual Pass $35
  2. Daily Pass $5

(c) Equestrian
  1. Annual Pass $35
  2. Daily Pass $5

(d) Hikers and Off Highway Vehicle Passengers
  1. Annual Pass $25
  2. Daily Pass $3

(e) Children age five and under: No fee will be charged for any child age five and under when accompanied by his or her parent or guardian.

(4) Compl~~e~~imentary passes and fee waivers: The Doe Mountain Recreation Authority Board of Directors may allow for compl~~e~~imentary passes, as appropriate, for specific categories of users. The Board of Directors may also authorize reduced fees or waive fees for appropriate purposes, such as for promotions, for access by persons conducting scientific research, etc., if the Board of

Directors determines that waiver is in the interest of the Doe Mountain Recreation Authority. The authority to reduce fees or waive fees on a case-by-case basis may be exercised by the Chair of the Board of Directors of the Doe Mountain Recreation Authority. The authority to reduce fees or waive fees on a case-by-case basis may also be delegated by the Board of Directors to the Doe Mountain Recreation Authority Manager or to such other person as the Board of Directors designates.

Authority: T.C.A. §§ 11-25-107 to 11-25-108. Administrative History: Original rule filed August 6, 2013; effective November 4, 2013.

Redline of May 2014 DMRA Rule Amendment – New text is underlined red; deleted text is red strikethrough.

0485-01-01-.07 USER AGREEMENT AND FEES.

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Authority: T.C.A. §§ 11-25-107 to 11-25-108. Administrative History: Original rule filed August 6, 2013; effective November 4, 2013.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Frank Arnold				X	
Ed Carter (by John Gregory)	X				
Mike Farmer	X				
Jerry Grindstaff	X				
Carolyn Hawkins	X				
Brock Hill	X				
Lawrence Keeble	X				
Gabrielle Lynch	X				
Terry Maughon	X				
Roby Philippi	X				
Larry Potter	X				
Ray Stout	X				
Richard Strang	X				
Matthew Garland				X	
Susan Whitaker (by Dave Jones)	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Doe Mountain Recreation Authority Board of Directors on 05/06/2014, 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: 02/18/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 05/06/2014

Date: 5-21-14

Signature:

Name of Officer: Larry Potter

Title of Officer: Chair, Doe Mountain Recreation Authority Board of Directors

Subscribed and sworn to before me on: 5/21/14

Notary Public Signature:

My commission expires on: 4/22/16

RUSSELL ROBINSON STATE OF TENNESSEE NOTARY PUBLIC SULLIVAN 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

6-26-14
Date

Department of State Use Only

Filed with the Department of State on: 7/14/14

Effective on: 10/12/14

Tre Hargett by Mary Beth Maddox POA
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Finance and Administration
DIVISION:	Bureau of TennCare
SUBJECT:	Home and Community Based Health Services
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 4-5-202, 71-5-105 and 71-5-109
EFFECTIVE DATES:	October 26, 2014 through June 30, 2015
FISCAL IMPACT:	Increase state annual expenditures by $7,870,000
STAFF RULE ABSTRACT:	The proposed amendment allows the state to continue to enroll and provide Home and Community Based Services through June 30, 2015 to persons who are at risk of institutionalization and deemed financially eligible for long-term services.

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.

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: 07-24-14
Rule ID(s): 5776
File Date: 7/28/14
Effective Date: 10/26/14

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**
1200-13-01	TennCare Long-Term Care Programs
Rule Number	**Rule Title**
1200-13-01-.02	Definitions
1200-13-01-.05	TennCare CHOICES Program

1200-13-01-.02 DEFINITIONS.

(21) CHOICES At-Risk Demonstration Group.

(b) Members eligible for TennCare in the CHOICES At-Risk Demonstration Group on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization as defined in these rules, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.

(70) Interim CHOICES Group 3 (open only between July 1, 2012, and ~~December 31, 2013~~June 30, 2015).

(a) Individuals age sixty-five (65) and older and adults age twenty-one (21) and older with Physical Disabilities who qualify for TennCare as SSI recipients or as Members of the CHOICES At-Risk Demonstration Group, and who are At Risk for Institutionalization as defined in these rules. There will be no Enrollment Target applied to Interim CHOICES Group 3.

(b) Members enrolled in Interim CHOICES Group 3 on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility, continue to be At Risk for Institutionalization, can be safely served in Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group and in CHOICES Group 3.

1200-13-01-.05 TENNCARE CHOICES PROGRAM.

(3) Eligibility for CHOICES.

(a) There are three (3) groups in TennCare CHOICES:

3. CHOICES Group 3, including Interim CHOICES Group 3.

(iii) Eligibility Categories served in CHOICES Group 3. Participation in CHOICES Group 3 is limited to TennCare Enrollees who qualify in one of the following eligibility categories:

(II) For Interim CHOICES Group 3 only, the CHOICES At-Risk Demonstration Group, as defined in Rule 1200-13-01-.02. Financial and categorical eligibility are determined by ~~DHS~~ the State. Persons who qualify in the CHOICES At-Risk Demonstration Group will be enrolled in TennCare Standard. This eligibility category is only open for enrollment between July 1, 2012 and ~~December 31, 2013~~June 30, 2015. Members enrolled in Interim CHOICES Group 3 on ~~December 31, 2013~~June 30, 2015, may continue to qualify in this group after ~~December 31, 2013~~June 30, 2015, so long as they continue to meet NF financial eligibility criteria and the LOC criteria in place at the time of enrollment into Interim CHOICES Group 3, and remain continuously enrolled in the CHOICES At-Risk Demonstration Group, Interim CHOICES Group 3, and TennCare.

(4) Enrollment in TennCare CHOICES. Enrollment into CHOICES shall be processed by the Bureau as follows:

(g) Enrollment Target for CHOICES Group 3 (including Interim CHOICES Group 3).

2. Notwithstanding any Enrollment Target established for CHOICES Group 3 as described in this subparagraph, Interim CHOICES Group 3 which is open for enrollment between July 1, 2012, and ~~December 31, 2013~~June 30, 2015, shall not be subject to an Enrollment Target.

GW10114127

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 07/17/2014 (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: 05/08/14

Rulemaking Hearing(s) Conducted on: (add more dates). 07/02/14

Date: 7/17/2014

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: 7/17/14

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

7-25-14
Date

Department of State Use Only

Filed with the Department of State on: 7/28/14

Effective on: 10/26/14

Tre Hargett
Secretary of State

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2014 JUL 28 PM 3:00
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