

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION:

SUBJECT: Controlled Substance Database

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 53-10-303

EFFECTIVE DATES: January 4, 2013 through July 3, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rules implement the Prescription Safety Act established by Chapter 880 of the 2012 Public Acts.

Through the rulemaking authority contained in the Prescription Safety Act, the Commissioner of Health is authorized to promulgate rules regarding the following: establishing, maintaining, and operating the controlled substance database; access to the database and how access is obtained; control and dissemination of data and information in the database; and the sharing and dissemination of data and information in the database with other states or entities acting on behalf of a state.

The changes made by the Act and these rules include more stringent reporting requirements for dispensers of controlled substances, which, in turn, provides more timely information to prescribers and prevents doctor shopping.

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)

It is not anticipated these rules will have an impact on local governments.

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Emergency Rule Filing Form

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

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Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

The Tennessee Prescription Safety Act of 2012, 2012 Tenn. Pub. Acts, ch. 0880, was enacted by the General Assembly on May 9, 2012. The Act makes significant changes to the operation of the controlled substance database, which has "[t]he purpose of assisting in research, statistical analysis, criminal investigations, enforcement of state or federal laws involving controlled substances, and the education of health care practitioners concerning patients who, by virtue of their conduct in acquiring controlled substances, may require counseling or intervention for substance abuse." See T.C.A. § 53-10-304.

The database operates to collect and maintain data regarding the prescribing and dispensing of certain controlled substances. The database is a vital tool in the effort to curtail prescription drug misuse and abuse and is within the scope of the Department of Health's mission to protect, promote, and improve the health and prosperity of people in Tennessee. The information available in the database is especially valuable, given the fact that from 2010 to 2011 unintentional drug overdose deaths have risen and exceeded deaths by both motor vehicle accidents and homicides in Tennessee. This epidemic of unintended deaths poses an immediate danger to public health and safety.

The Commissioner of Health is authorized pursuant to T.C.A. § 4-5-208 to promulgate emergency rules in the event of an immediate danger to the public health, safety or welfare. In this case, the General Assembly contemplated the promulgation of emergency rules, as the Act specifically provides that it takes effect upon becoming law, "[f]or purposes of promulgating rules and regulations, including emergency rulemaking." 2012 Tenn. Pub. Acts, ch. 880, § 29. Significant changes to the functioning of the database occur on January 1, 2013, and the Commissioner believes it is necessary that the rules implementing these changes occur concurrently. The changes include more stringent reporting requirements for dispensers of controlled substances, which, in turn, provide more timely information to prescribers and prevents "doctor shopping." Current and accurate database information is essential and will serve to curb the immediate danger to the public health and safety.

**RULES
OF
THE TENNESSEE BOARD OF PHARMACY**

**CHAPTER 1140-11
CONTROLLED SUBSTANCE MONITORING DATABASE**

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1140-11-01 DEFINITIONS.

- (1) The following definitions shall be applicable to this chapter:
- (a) “Board” means the Board of Pharmacy created by Tenn. Code Ann., Title 63, Chapter 10, part 3;
 - (b) “Commissioner” means the Commissioner of ~~Commerce and Insurance~~ Health;
 - (c) “Committee” means the ~~e~~Controlled ~~s~~Substance ~~m~~Monitoring ~~d~~Database ~~a~~Advisory ~~e~~Committee created by Tenn. Code Ann. ~~§ 53-10-303~~ title 53, chapter 10, part 3;
 - (d) “Controlled substance(s)” means a drug, substance, or immediate precursor in Schedules I through VI as defined or listed in the Tennessee Drug Control Act, compiled in Tenn. Code Ann. Title 39, chapter 17, part 4;
 - (~~e~~) “Controlled substance dispensed identifier” means the National Drug Code Number of the controlled substance;
 - (~~f~~e) “Database” means the controlled substance database created by Tenn. Code Ann., Title 53, Chapter 10, Part 3;
 - (g~~f~~) “Department” means the Department of ~~Commerce and Insurance~~ Health;
 - (h~~g~~) “Dispense” means to physically deliver a controlled substance covered by this chapter to any person, institution or entity with the intent that it be consumed away from the premises in which it is dispensed. ~~“Dispense”~~ It does not include the act of writing a prescription by a practitioner to be filled at a pharmacy licensed by the Board. For purposes of this part, physical delivery includes mailing controlled substances into this state;
 - (i~~h~~) “Dispenser” means any health care practitioner who is licensed and has current authority to dispense controlled substances; ~~pharmacists, and pharmacies that dispense to any address within this state;~~
 - (j~~i~~) “Dispenser identifier” means the Drug Enforcement Administration Registration Number of the dispenser as defined in ~~Tenn. Code Ann. §53-10-302~~ (78);

(Rule 1140-11-.01, continued)

- (k) "Hardship" means a situation where a dispenser does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the American Society for Automation in Pharmacy Telecommunications Format for Controlled Substances. "Hardship" may also include other situations as determined by the committee in its sole discretion;
- (l) "Healthcare practitioner" means:
1. a physician, dentist, optometrist, veterinarian, or other person licensed, registered, or otherwise permitted to prescribe, distribute, dispense or administer a controlled substance in the course of professional practice; or
 2. a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, or administer a controlled substance in the course of professional practice;
- (m) "Healthcare practitioner extender" means any registered or licensed healthcare professional, and up to two (2) unlicensed persons designated by the prescriber or dispenser, who act as agents of the prescriber or dispenser. The prescriber or dispenser shall be responsible for all actions taken by the agents;
- (n) "Law enforcement personnel" means agents of the Tennessee Bureau of Investigation, agents of a judicial district drug task force, federal law enforcement officers commissioned by a federal government entity, certified law enforcement officers certified pursuant to T. C. A. § 38-8-107, and certified law enforcement officers in other states;
- (oj) "Patient" means a person, animal or owner of an animal who is receiving medical treatment from a prescriber;
- (pk) "Patient identifier" means the patient's full name; address; including zip code; date of birth; and social security number or an alternative identification number as defined by this rule;
- (ql) "Person" means any individual, partnership, association, corporation and the state of Tennessee, its departments, agencies and employees, and the political subdivisions of Tennessee and their departments, agencies and employees;
- (m) ~~"Prescriber" means any health care practitioner who has the authority to issue prescriptions for controlled substances;~~
- (r) "Prescriber" means an individual licensed as a medical doctor, podiatrist, dentist, optometrist, veterinarian, osteopathic physician, a physician assistant who has authority to issue prescriptions for controlled substances, or an advanced practice nurse with a certificate of fitness to prescribe;
- (sh) "Prescriber identifier" means the Drug Enforcement Administration Registration Number of the prescriber as defined by this rule.

Authority: T.C.A. §§53-10-302 and 53-10-303(f). **Administrative History:** Original rule filed December 22, 2005; effective March 7, 2006.

1140-11-.02 ACCESS TO DATABASE.

- (1) ~~The following persons shall have access to the controlled substance database with regard to a patient:~~

(Rule 1140-11-.01, continued)

- ~~(a) — the prescriber who is currently issuing the patient a controlled substance or controlled substances or who anticipates issuing the patient a controlled substance or controlled substances;~~
 - ~~(b) — the dispenser who is currently dispensing a controlled substance or controlled substances to the patient or who anticipates issuing the patient a controlled substance or controlled substances;~~
 - ~~(c) — a person who has the patient's written permission to have access to the patient's records in the database;~~
 - ~~(d) — the manager of any investigations or prosecution unit of a health-related board, committee or other governing body that licenses practitioners who has access to the database with the committee's permission pursuant to Tenn. Code Ann. §53-10-308, may release the database information that that such manager receives to the state of Tennessee health-related boards, health-related committees, the department, the department of health and representatives of health-related professional recovery programs; or~~
 - ~~(e) — a district attorney who obtains an order from circuit or criminal court ordering the release of the information contained in the database, in compliance with Tenn. Code Ann. §53-10-306.~~
- ~~(2) — The persons listed in paragraph (1) of this rule shall have access to the information contained in the database by submitting a request for information in writing or by electronic means to the Committee on a form developed by the Committee and in compliance with the procedures developed by the Committee. The Committee shall not disseminate any information from the database without the submission of this written request, unless the dissemination of the information is directed by Court Order.~~
- (1) All prescribers with DEA numbers who prescribe controlled substances, and all dispensers in practice who provide direct care to patients in Tennessee for more than fifteen (15) calendar days per year, shall be registered in the database. New licensees shall have up to thirty (30) calendar days after notification of licensure to register in the database. Licensed veterinarians who never prescribe a controlled substance in an amount intended to treat a non-human patient for more than forty-eight (48) hours shall not be required to register in the database.
- (2) Information sent to, contained in, and reported from the database in any format shall be made available only as provided for in T.C.A. § 53-10-308 and to the following persons in accordance with this chapter, or as otherwise provided for in T.C.A. § 53-10-311:
- (a) A prescriber conducting medication history reviews who is actively involved in the care of a patient or a bona fide prospective patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access;
 - (b) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of a patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access;

(Rule 1140-11-.01, continued)

- (c) A county medical examiner appointed pursuant to T.C.A. § 38-7-104 when acting in an official capacity as established in T.C.A. § 38-7-109;
- (d) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as part of their assigned duties and responsibilities directly related to TennCare:
1. The Office of the Inspector General;
 2. The Medicaid Fraud Control Unit; and
 3. The Bureau of TennCare's Chief Medical Officer, Associate Chief Medical Directors, Director of Quality Oversight, and Associate Director of Pharmacy.
- (e) A quality improvement committee, as defined in T.C.A. § 68-11-272, of a hospital licensed under T.C.A. title 68 or title 33, as part of the committee's confidential and privileged activities under T.C.A. § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;
- (f) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, or considering prescribing or dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access, and the prescriber or dispenser shall cancel the healthcare practitioner extender's access to the database upon the end of the agency relationship; or
- (g) A manager of any investigation or prosecution unit of a health related board, committee or other governing body that licenses practitioners, who has access to the database with the committee's permission pursuant to T.C.A. § 53-10-308. Such manager may release the database information to the state of Tennessee health related boards, health related committees, the department, and representatives of health-related professional recovery programs;
- (h) The following personnel of the Department of Mental Health and Substance Abuse Services, who are actively engaged in analysis of controlled substance prescription information, as part of their assigned duties and responsibilities. These personnel shall have access to prescription information for specific patients. Additionally, aggregate controlled substances prescribing information may be provided to these personnel and may be shared with other personnel of the Department of Mental Health and Substances Abuse Services as needed to fulfill the assigned duties and responsibilities:
1. The Chief Pharmacist;
 2. The State Opioid Treatment Authority (SOTA) or SOTA designees; and
 3. The Medical Director.
- (i) A person who has the patient's written permission to have access to the patient's records in the database.
- (3) The persons listed in paragraph (2) of this rule shall have access to the information contained in the database by submitting a request for information in writing or by electronic means to the Committee on

(Rule 1140-11-.01, continued)

a form developed by the Committee and in compliance with the procedures developed by the Committee. The Committee shall not disseminate any information from the database without the submission of this written request, unless the dissemination of the information is directed by Court Order.

- (4) Law enforcement personnel engaged in an official investigation and enforcement of state or federal laws involving controlled substances or violations of T.C.A. title 53, chapter 10, part 3 may access information contained in the database pursuant to this chapter.
- (5) Law enforcement agencies and personnel seeking or receiving information from the database pursuant to this section shall comply with the following requirements:
 - (a) Any law enforcement agency or judicial district drug task force that requires one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff, or the judicial district drug task force district attorney general in the judicial district in which the agency or task force has jurisdiction. By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year.
 - (b) If the Tennessee Bureau of Investigation (TBI) requires one (1) or more of its agents to have the authorization to request information from the database, each such agent shall first be pre-approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board of pharmacy by the TBI director. By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year.
 - (c) An application submitted by law enforcement personnel shall include at least the following:
 1. Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate district attorney general and, if a TBI agent, the TBI director and their email addresses; and
 2. Signatures of the applicant, the applicant's approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving TBI division head and the TBI director.
 - (d) When requesting information from the database, law enforcement personnel must provide a case number corresponding with an official investigation involving controlled substances.
 - (e) Law enforcement personnel, including judicial district drug task force agents and TBI agents, who are authorized to request information from the database, shall resubmit their identifying application information that was submitted pursuant to subparagraph 5(c) to the appropriate district attorney general or to the TBI director, by November 20 of each year. Such resubmitted applications shall be sent by the appropriate district attorney general or the TBI director to the board of pharmacy by December 1 each year. If during the calendar year, a name is added to the list, removed from the list, or information about a person on the list changes, the appropriate district attorney general or TBI director shall immediately notify the board of pharmacy of any changes to the list submitted or in the information submitted for each officer or agent on the list application.

(Rule 1140-11-.01, continued)

- (6) Information obtained from the database may be shared with other law enforcement personnel or prosecutorial officials, only upon the direction of the officer or agent who originally requested the information, and may only be shared with law enforcement personnel from other law enforcement agencies who are directly participating in an official joint investigation.
- (7) Any information obtained from the database that is sent to a law enforcement official or judicial district drug task force agent shall also be sent to the district attorney general of the judicial district in which such officer or agent has jurisdiction. Likewise, any database information sent to a TBI agent shall also be sent to the TBI director.
- (8) Information obtained from the database by law enforcement personnel shall be retained by the law enforcement personnel's respective department or agency. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes. Information obtained from the database shall be maintained as evidence in accordance with each law enforcement agency's respective procedures relating to the maintenance of evidence.
- (9) If a law enforcement officer, judicial district drug task force agent, or TBI agent has probable cause to believe, based upon information received from a database request, that a prescriber or pharmacist may be acting or may have acted in violation of the law, the officer or agent shall consult with the board of pharmacy inspector's office if a pharmacist is believed to have acted or is acting unlawfully or to the health related boards' investigations unit if a prescriber is believed to have acted or is acting unlawfully.
- (10) At least every six (6) months, the board of pharmacy shall send a list to each district attorney general containing all requests made for database information during the previous six (6) months. The list shall include the name of the requesting officer or agent, the officer or agent's agency, the date of the request, and the nature of the request, including the case number, for each office or agent making a request in such district attorney's judicial district. Likewise, a list shall be sent to the TBI director for all TBI agents making requests during the previous six (6) months.
 - (a) Each district attorney general and the TBI director shall use the list to verify database requests made during the preceding six (6) month period, and conduct an audit in accordance with Tenn. Code Ann. § 53-10-306(j)(2). Verification of all database requests on the list received by each district attorney general and the TBI director must be sent back to the board of pharmacy within sixty (60) days of receipt. Where database information requests do not correspond to an investigation in the applicable jurisdiction or if the information requested was not relevant or pertinent to such an investigation, the district attorney general or TBI director shall so note on the verified list and shall investigate and make a report to the board of pharmacy within sixty (60) days.
 - (b) The results of the audit shall be discoverable by a prescriber, dispenser, or healthcare practitioner extender charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by an appropriate licensing board for a violation of any law involving controlled substances, but only the results pertaining to that prescriber, dispenser, or healthcare practitioner extender are discoverable. If, however, there is an active criminal investigation involving a prescriber, dispenser, or healthcare practitioner extender, or the prescriber, dispenser, or healthcare practitioner extender is under investigation by any investigations or prosecution unit of the appropriate licensing board, the results of the audit shall not be discoverable by the prescriber, dispenser, or healthcare practitioner extender during either such period.

Authority: T.C.A. §§53-10-303(f), 53-10-304(b), 53-10-305(e), 53-10-306, and 53-10-308. **Administrative History:** Original rule filed December 22, 2005; effective March 7, 2006.

(Rule 1140-11-.01, continued)

1140-11-.03 ALTERNATIVE IDENTIFICATION OF PATIENTS.

- (1) If a patient does not have a social security number or refuses to provide his or her social security number to be used as a patient identifier, then the board shall use the patient's driver's license number or telephone number as the patient identifier in the database.
- (2) If a patient does not have a social security number, a driver's license number or a telephone number, then the board shall use the number "000-00-0000" as the patient identifier in the database.
- (3) If a patient or a patient's agent refuses to provide his or her social security number, driver's license number or telephone number to his or her prescriber or dispenser, then the board shall use the number "999-99-9999" as the patient identifier in the database.
- (4) If a patient's social security number is not available, then the board shall use the social security number, driver's license number or telephone number of the person obtaining the controlled substance on behalf of the patient as the patient identifier in the database or the numbers "000-00-0000" (does not have the data) or "999-99-9999" (refusal to provide data), as applicable.
- (5) If a patient is a child who does not have a social security number, then the board shall use the parent's or guardian's social security number, driver's license number, telephone number, or number "000-00-0000" (does not have data) or number "999-99-9999" (refusal to provide data) as the patient identifier in the database.
- (6) If a patient is an animal, then the board shall use the owner's social security, driver's license number, telephone number, or number "000-00-0000" (does not have data) or number "999-99-9999" (refusal to provide data) as the patient identifier in the database.

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

1140-11-.04 SUBMISSION OF INFORMATION.

- ~~(1) A dispenser who is licensed in the State of Tennessee, who is dispensing controlled substances within or from outside of the State of Tennessee and who is treating patients in the State of Tennessee with controlled substances shall submit the required information to the Committee pursuant to Tenn. Code Ann. §53-10-305(a).~~
- ~~(2) The dispenser shall submit the data that is required by Tenn. Code Ann. §53-10-305 in one of the following forms:
 - ~~(a) an electronic device compatible with the Committee's receiving device or the receiving device of the Committee's agent;~~
 - ~~(b) double-sided, high-density micro floppy disk;~~
 - ~~(c) one-half (1/2)-inch, nine (9)-track sixteen hundred (1,600) or six thousand two hundred and fifty (6,250) BPI magnetic tape; or~~
 - ~~(d) other electronic or data format approved by the Committee.~~~~
- ~~(3) The dispenser shall transmit the data that is required pursuant to Tenn. Code Ann. §53-10-305(a) in the May, 1995 version of the Telecommunications Format for Controlled Substances established by the American Society for Automation in Pharmacy (ASAP).~~

(Rule 1140-11-.03, continued)

- ~~(4) If the dispenser does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the ASAP, then the dispenser may request a waiver from the electronic reporting requirement from the Committee.~~
- ~~(5) If the Committee grants the dispenser a waiver from the electronic reporting requirement, then the dispenser shall comply with an alternative method of reporting the data as determined by the Committee, such as submitting the required data in writing on a form approved by the Committee.~~
- (1) Each dispenser or dispenser's agent shall, regarding each controlled substance dispensed, submit to the database all of the following information:
- (a) Prescriber identifier;
 - (b) Dispensing date of controlled substance;
 - (c) Patient identifier;
 - (d) Controlled substance dispensed identifier;
 - (e) Quantity of controlled substance dispensed;
 - (f) Strength of controlled substance dispensed;
 - (g) Estimated number of days' supply;
 - (h) Dispenser identifier;
 - (i) Date the prescription was issued by the prescriber;
 - (j) Whether the prescription was new or a refill; and
 - (k) Source of payment.
- (2) The information in the database, as required by paragraph one (1) above, shall be submitted at least once every seven (7) days for all controlled substances dispensed during the preceding seven (7) day period.
- (3) The data required by this rule shall be submitted to the database by any dispenser, or dispenser's agent, who dispenses a controlled substance contained in Schedules II, III, and IV, and Schedule V controlled substances identified by the Committee as demonstrating a potential for abuse.
- (4) The reporting requirement shall not apply for the following:
- (a) A drug administered directly to a patient;
 - (b) Any drug sample dispensed;
 - (c) Any drug dispensed by a licensed veterinarian; provided, that the quantity dispensed is limited to an amount adequate to treat the non-human patient for a maximum of forty-eight (48) hours;
 - (d) Any facility that is registered by the United States drug enforcement administration as a narcotic treatment program and is subject to the recordkeeping provisions of 21 CFR 1304.24; or

(Rule 1140-11-.03, continued)

- (c) Any drug dispensed by a licensed healthcare facility; provided, that the quantity dispensed is limited to an amount that is adequate to treat the patient for a maximum of forty-eight (48) hours.
- (5) The dispenser, or dispenser's agent, shall submit the data that is required by T.C.A. § 53-10-305 in one of the following forms:

 - (a) An electronic device compatible with the Committee's receiving device or the receiving device of the Committee's agent; or
 - (b) Other electronic or data format approved by the Committee.
- (6) The dispenser shall transmit the data that is required, pursuant to T.C.A. § 53-10-305, in the 2009 version of the Telecommunications Format for Controlled Substances established by the American Society for Automation in Pharmacy (ASAP).
- (7) If the dispenser does not have an automated recordkeeping system capable of producing an electronic report of the required data in the format established by the ASAP, or for whom electronic reporting would cause an undue hardship as determined by the Committee, then that dispenser may request a waiver from the electronic reporting requirement from the Committee. The waiver may be valid for two (2) years from ratification by the Committee.
- (8) If the Committee grants the dispenser a waiver from the electronic reporting requirement, then the dispenser shall comply with an alternative method of reporting the data as determined by the Committee, such as submitting the required data in writing on a form approved by the Committee.

Authority: *T.C.A. §§53-10-303(f), 53-10-304, and 53-10-305. Administrative History: Original rule filed December 22, 2005; effective March 7, 2006.*

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

- (1) Each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a prescriber or dispenser provides healthcare services to a human patient potentially receiving a controlled substance.
- (2) This rule shall not apply to dispensers who are not required to report pursuant to T. C. A. § 53-10-304(d) or § 53-10-305(g).
- (3) A violation of paragraph one (1) above is punishable by a civil penalty not to exceed one hundred dollars (\$100) per day assessed against the person or entity operating the practice site; provided, however, that the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database

Authority: *T.C.A. §§53-10-303(f) and 53-10-310.*

1140-11-.06 PRESCRIBER AND DISPENSER RESPONSIBILITIES (Effective April 1, 2013).

- (1) All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted by Tenn. Code Ann. title 53, chapter 10, part 3, shall check the database prior to prescribing one of the controlled substances identified below in paragraph (3) to a human patient at the beginning of a new

(Rule 1140-11-.03, continued)

- episode of treatment and shall check the database for the human patient at least annually when that prescribed controlled substance remains part of treatment.
- (2) Before dispensing, a dispenser shall have the professional responsibility to check the database or have a healthcare practitioner extender check the database, if the dispenser is aware or reasonably certain, that a person is attempting to obtain a Schedule II-V controlled substance, which has been identified by the committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of § 53-11-402.
- (3) The controlled substances which trigger a check of the database pursuant to paragraph (1) above include, but are not limited to, all opioids and benzodiazepines.
- (4) Prescribers are not required to check the database before prescribing or dispensing one of the controlled substances identified in paragraph (3) above or added to that list by the committee if one (1) or more of the following conditions is met:
- (a) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;
- (b) The committee has determined that prescribers in a particular medical specialty shall not be required to check the database as a result of the low potential for abuse by patients receiving treatment in that medical specialty;
- (c) The controlled substance is prescribed or dispensed to a patient as a non-refillable prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility;
- (d) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single, seven-day treatment period and does not allow a refill.

Authority: *T.C.A. §§53-10-303(f) and 53-10-310.*

* 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)
N/A					

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

Date: 1/2/13

Signature: David Reagan

Name of Officer: David Reagan, MD, PhD

Title of Officer: Chief Medical Officer
Department of Health



Subscribed and sworn to before me on: 1/2/13

Notary Public Signature: Kristann A. Floyd

My commission expires on: 3/22/2014

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.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
1-4-13
 Date

Department of State Use Only

Filed with the Department of State on: 1/4/13

Effective for: 180 *days

Effective through: 7/3/13

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

Tre Hargett
 Tre Hargett
 Secretary of State

RECEIVED
 2012 JAN -4 PM 12:36
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 EMERGENCY RULES

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Annual Emission Fees

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-201-101 et seq.

EFFECTIVE DATES: April 8, 2013 through June 30, 2014

FISCAL IMPACT: It is estimated that this revision will result in increased state revenues of approximately \$1.2 million. The agency reports that the increase in fees is necessary because insufficient funds were collected to fund the program for 2011-2012, and the fund balance was reduced by \$1.1 million. Expenditures are predicted to increase by approximately \$100,000 for the 2012-2013 fiscal year.

STAFF RULE ABSTRACT: This rule increases the annual emission fees for major (Title V) sources of pollution. The increase is \$1 per annual ton of emissions for sources that are not electric utility generating units (EGUs) and \$17 per annual ton of emissions for EGU sources.

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.

Comments received from Wayne K. Scharber, Executive Vice-President for Environmental Affairs, Tennessee Chamber of Commerce and Industry.

Comment: The Chamber supports a fee level that is predicated on a tonnage fee and a base charge for minimum fees of no greater than necessary to fund the projected/authorized expenditures for Fiscal Year 2012-2013.

Response: The Division appreciates the Chamber's support and cooperation in the fee process. The projected fees are estimated to provide only sufficient funds to operate the Title V permit program for fiscal year 2012-2013.

Comment: Likewise, in the funding needs analysis, we remain concerned about the growth of administrative overhead costs and the allocation charged to the Title V program as it continues to increase and we do desire that the administrative overhead areas should be reviewed thoroughly and not be increasing simply because the program expenditures may be increasing.

Response: The Department has met with members of the Chamber to discuss this concern and will continue to evaluate the comments 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.

This rulemaking amendment to subparagraph (d) of paragraph (9) of rule 1200-03-26-.02 Construction and Annual Emission Fees is federally mandated and, hence, exempt from the provisions of the Regulatory Flexibility Act of 2007, Acts 2007, § 6 of Public Chapter 464. The rule subject to this amendment is part of the requirements of § 502(b)(3)(A) of the Federal Clean Air Act which is the source of the requirement for Tennessee to collect “an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title”.

Impact on Local Governments

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

The Department anticipates that this amended rule will not have a financial impact on local governments.

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Sequence Number: 01-04-13
Rule ID(s): 5358
File Date: 01/08/13
Effective Date: 04/08/13

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:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Lacey J. Hardin
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0554
Email:	Lacey.Hardin@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-03-26	Administrative Fees Schedule
Rule Number	Rule Title
1200-03-26-.02	Construction and Annual Emission Fees

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 1200-03-26 Administrative Fees Schedule

Subparagraph (d) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (d) in its entirety and replacing it with the following so that, as amended, subparagraph (d) shall read as follows:

- (d) The rate at which major source actual-based annual emission fees are assessed for non-EGU sources shall be \$39.00 \$40.00 per ton for the annual accounting period July 1, 2011 through June 30, 2012. The and the rate at which major source allowable-based annual emission fees are assessed for non-EGU sources shall be \$28.50 \$29.50 per ton for the annual accounting period July 1, 2012 through June 30, 2012. Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than \$7,500 for the annual accounting period July 1, 2011 through June 30, 2012. An annual The rate at which major source actual-based annual emission fees are assessed for EGU sources shall be \$56.00 per ton and the rate at which major source allowable-based annual emission fees are assessed for EGU sources shall be \$45.50 per ton. These annual emission fee rates remain in effect until the effective date of an amendment to this subparagraph. Any revision to these rates and the minimum fee must result in the collection of sufficient fees to fund the activities identified in subparagraph (1)(c) of this rule. These annual fee rates and the minimum fee shall be supported by the Division's annual workload analysis that is approved by the Board. For purposes of this subparagraph, an electric utility generating unit (EGU) means any steam electric generating unit or stationary combustion turbine that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected EGU.

Authority: T.C.A. §§ 68-201-101 et seq., and 4-5-201 et seq.

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

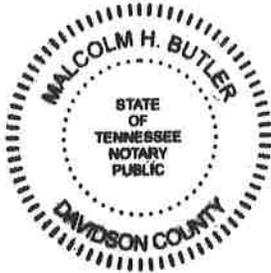
Board Member	Aye	No	Abstain	Absent	Signature (if required)
J. Ronald Bailey				✓	
Elaine Boyd	✓				<i>Elaine Boyd</i>
Brian Christman				✓	
Karen Cisler	✓				<i>Karen Cisler</i>
Wayne T. Davis	✓				<i>Wayne T. Davis</i>
Stephen Gossett	✓				<i>Stephen Gossett</i>
Tommy Green				✓	
Shawn A. Hawkins	✓				<i>Shawn A. Hawkins</i>
Helen Hennon	✓				<i>Helen A. Hennon</i>
Richard Holland	✓				<i>Richard Holland</i>
John Roberts	✓				<i>John A. Roberts</i>
Larry Waters	✓				<i>Larry Waters</i>
Jimmy West	✓				<i>James R. West</i>
Alicia Wilson	✓				<i>A. Wilson</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 12/12/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/18/12

Rulemaking Hearing(s) Conducted on: (add more dates). 12/10/12



Date: Dec. 13, 2012

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: December 13, 2012

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 6, 2013

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
1-8-13
Date

Department of State Use Only

Filed with the Department of State on: 01/08/13

Effective on: 04/08/13

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: New Source Review

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-201-101 et seq.

EFFECTIVE DATES: April 24, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rule revisions add fine particulate matter (PM2.5) increments to the requirements for New Source Review.

These rules also add maximum allowable increases of PM2.5 over baseline concentrations for Class I variances and revise the current baseline dates for particulate matter to those for PM10.

The agency reports that these changes are being made to make Tennessee's New Source Review regulations consistent with federal and other state regulations.

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 official comments received during the public comment period, but Twunjala Bradley with EPA Region 4 made some verbal comments. We received a letter from Scott Davis, Chief of the Air Planning Branch at EPA Region 4, containing those comments formally after the close of the comment period, although it was postmarked the last day of the comment period. Because the comments were relevant, the proposed rule was revised prior to the hearing and the changes were read into the official record. The comments are summarized below.

Comment 1: The Class I variance provision at Rule 1200-03-09-.01(4)(n)3 does not include the PM_{2.5} increments pursuant to the provisions at 51.166(p)(4) regarding Class I variances. The EPA recommends that Tennessee revise the Class I variance regulations to include the PM_{2.5} maximum allowable increases to be consistent with the federal regulations. In addition, the Term “particulate matter” should be revised to read “PM_{2.5}, PM₁₀.”

Response: These changes were made.

Comment 2: Regarding the definition of *baseline date* at Rule 1200-03-09-.01(4)(b)15(i) and (ii)(I), the EPA recommends that Tennessee revise the phrase “...in the case of particulate matter...” to “...in the case of PM₁₀...”

Response: These changes were made.

Comment 3: Regarding the revision at Rule 1200-03-09-.01(4)(d)6(i)(III) to adopt the SMC of 4 micrograms per cubic meter into the Tennessee SIP, TDEC explains that they are deleting the current item (III) and replacing it with a new item (II); however, the new item is incorrectly labeled as item (I).

Response: This correction has been made.

Comment 4: Regarding the proposed state implementation plan (SIP) revision at Rule 1200-03-09-.01(5)(b)1(xix) – *Significantly Impact* to adopt PM_{2.5} SILs, the EPA’s authority to implement the PM_{2.5} SILs and SMC for PSD purposes as promulgated in the October 20, 2010 (*Federal Register*, sic), has been challenged by the Sierra Club, *Sierra Club v. EPA*, Case No 10-1413 United States Court of Appeals for the District of Columbia. Due to the litigation, the EPA is not taking action to approve the PM_{2.5} SILs into the SIP at this time.

Response: The Division has withdrawn this proposed change.

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 foregoing amendments to Rule 1200-03-09-.01 are to comply with § 110 and 172(c) of the federal Clean Air Act. These amendments relate to the New Source Review Program, which is a mandatory element of the required State Implementation Plan under the Clean Air Act, therefore, this rulemaking is exempt from the requirements of T.C.A. § 4-5-401 et seq.

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 proposed rule revisions will not have a projected impact on local governments.

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Sequence Number: 01-18-13
Rule ID(s): 5365
File Date: 1/24/13
Effective Date: 4/24/13

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:	Environment and Conservation
Division:	Air Pollution Control
Contact Person:	Lacey J. Hardin
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0545
Email:	Lacey.Hardin@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.01	Construction Permits

(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 1200-03-09
Construction and Operating Permits

Amendments

Part 14 of subparagraph (b) of paragraph (4) of Rule 1200-03-09-01 Construction Permits is amended by deleting the current part 14 and replacing it with a new part 14 so that, as amended, the new part shall read as follows:

14. "Baseline area" means any intrastate area (and every part thereof) not designated as a nonattainment area in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal ~~Equal~~ to or greater than $1 \mu\text{g}/\text{m}^3$ (annual average) ~~of the pollutant for which the minor source baseline date is established for SO_2 , NO_2 , or PM_{10} , or equal to or greater than $0.3 \mu\text{g}/\text{m}^3$ (annual average) for $\text{PM}_{2.5}$.~~
- (i) Area redesignations under this Division, 1200-03, cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to the regulations in this paragraph.

Part 15 of subparagraph (b) of paragraph (4) of Rule 1200-03-09-01 Construction Permits is amended by deleting the current part 15 and replacing it with a new part 15 so that, as amended, the new part shall read as follows:

15. "Baseline date":
- (i) "Major source baseline date" means in the case of ~~particulate matter PM_{10}~~ and sulfur dioxide, January 6, 1975; ~~and~~ in the case of nitrogen dioxide, February 8, 1988; and in the case of $\text{PM}_{2.5}$, October 20, 2010.
- (ii) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification submits a complete application to the Technical Secretary or to the EPA administrator. The trigger date is:
- (I) In the case of ~~particulate matter PM_{10}~~ and sulfur dioxide, August 7, 1977; ~~and~~
- (II) In the case of nitrogen dioxide, February 8, 1988; and
- (III) In the case of $\text{PM}_{2.5}$, October 20, 2011.
- (iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:
- (I) The area in which the proposed source or modification would construct is not designated as a nonattainment area for the pollutant on the date of its complete application.
- (II) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

Item (III) of subpart (i) of part 6 of subparagraph (d) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting the current item (III) and replacing it with a new item (III) so that, as amended, the new item shall read as follows:

(III) Particulate matter:

10 $\mu\text{g}/\text{m}^3$ of TSP, 24-hour average
 10 $\mu\text{g}/\text{m}^3$ of PM₁₀, 24-hour average
4 $\mu\text{g}/\text{m}^3$ of PM_{2.5}, 24-hour average;

Subparagraph (f) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting the current subparagraph (f) and replacing it with a new subparagraph (f) so that, as amended, the new subparagraph shall read as follows:

(f) Ambient Air Increments. In areas designated as class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

MAXIMUM ALLOWABLE INCREASE
 (Micrograms per cubic meter)

		<u>Class I</u>
<u>Pollutant</u>		<u>$\mu\text{g}/\text{m}^3$</u>
<u>PM_{2.5}:</u>		
Annual arithmetic mean		1
24-hour maximum		2
PM ₁₀ :		
PM- ₁₀ , Annual arithmetic mean		4
PM- ₁₀ , 24-hour maximum		8
Sulfur dioxide:		
Annual arithmetic mean		2
24-hour maximum		5
3-hour maximum		25
Nitrogen dioxide:		
Annual arithmetic mean		2.5
<u>Class II</u>		
<u>PM_{2.5}:</u>		
Annual arithmetic mean		4
24-hour maximum		9
PM ₁₀ :		
Annual arithmetic mean		17

24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25

Class III

<u>PM_{2.5}:</u>	
<u>Annual arithmetic mean</u>	<u>8</u>
<u>24-hour maximum</u>	<u>18</u>
PM ₁₀ :	
Annual arithmetic mean	34
24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

Part 3 of subparagraph (n) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the current part 3 and replacing it with a new part 3 so that, as amended, the new part shall read as follows:

3. Class I Variances

The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Technical Secretary, provided that the applicable requirements of this paragraph are otherwise met, may issue the permit with such emission limitations as may be necessary as approved by the Tennessee Air Pollution Control Board to assure that emissions of sulfur dioxide, ~~particulate matter~~ PM_{2.5}, PM₁₀, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

<u>Pollutant</u>	<u>Maximum Allowable Increase $\mu\text{g}/\text{m}^3$</u>
<u>PM_{2.5}:</u>	
Annual arithmetic mean	<u>4</u>
24-hr maximum	<u>9</u>
<u>PM₁₀:</u>	
Annual arithmetic mean	17
24-hr maximum	30
<u>Sulfur dioxide:</u>	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
<u>Nitrogen dioxide:</u>	
Annual arithmetic mean	25

Subpart (xix) of part 1 of subparagraph (b) of paragraph (5) of Rule 1200-03-09-.01 Construction Permits is amended by deleting the current subpart (xix) and replacing it with a new subpart (xix) so that, as amended, the new subpart shall read as follows:

- (xix) "Significantly impact" means the contribution by a new stationary source or modification to the air quality in a nonattainment area in concentrations equal to or greater than the amount as follows:

Pollutant	Annual	Averaging Time (hours)			
		24	8	3	1
SO ₂	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
PM ₁₀	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$			
PM _{2.5}	0.3 $\mu\text{g}/\text{m}^3$	1.2 $\mu\text{g}/\text{m}^3$			
NO ₂	1.0 $\mu\text{g}/\text{m}^3$				
CO			500 $\mu\text{g}/\text{m}^3$ 0.5 mg/m ³		2000 $\mu\text{g}/\text{m}^3$ 2 mg/m ³

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. J. Ronald Bailey				✓	
Elaine Boyd	✓				<i>Elaine Boyd</i>
Dr. Brian W. Christman				✓	
Karen Cisler	✓				<i>Karen Cisler</i>
Dr. Wayne T. Davis	✓				<i>Wayne T. Davis</i>
Stephen R. Gossett	✓				<i>Stephen R. Gossett</i>
Mayor Tommy Green				✓	
Dr. Shawn A. Hawkins	✓				<i>Shawn A. Hawkins</i>
Helen Hennon	✓				<i>Helen S. Hennon</i>
Richard M. Holland	✓				<i>Richard M. Holland</i>
John Roberts	✓				<i>John A. Roberts</i>
Mayor Larry Waters	✓				<i>Larry Waters</i>
Jimmy West	✓				<i>James J. West</i>
Alicia M. Wilson	✓				<i>Alicia Wilson</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 12/12/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/03/12

Rulemaking Hearing(s) Conducted on: (add more dates). 12/04/12



Date: Dec. 13, 2012

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: December 13, 2012

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 6, 2013

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

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
1-18-13
Date

Department of State Use Only

Filed with the Department of State on: 1/24/13

Effective on: 4/24/13

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Emergency Medical Services

SUBJECT: Emergency Medical Technicians, EMT Paramedics, and
Emergency Medical First Responders

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-140-301 et seq.

EFFECTIVE DATES: April 11, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

1200-12-01-.04 Emergency Medical Technician (EMT) is amended by deleting it in its entirety and substituting in its place new rule 1200-12-01-.04 Emergency Medical Services Personnel Certification and Licensure. The old rule does not include the same.

1200-12-01-.04(1)(a) includes definitions of the following levels of certification/licensure: "Advanced Emergency Medical Technician (AEMT)"; "Emergency Medical Responder (EMR)"; "Emergency Medical Technician (EMT)"; "Paramedic". The rule amendment also includes definitions of the following: "Board"; "Department"; "Division"; "Medical Direction"; "Protocols"; and, "Standing Orders." The old rule does not include the above.

1200-12-01-.04(1)(b) includes the scope of practice for a certified Medical Responder (EMR). The rule allows the EMR to perform lifesaving interventions under medical direction at the scene while awaiting the arrival of higher level EMS personnel. The rule requires a certified EMR to possess, at a minimum, skills defined by the current National Model Scope of Practice and Educational Standards. It further allows the EMRs scope of practice to be extended to include skills the Board authorizes and approves. The old rule did not include the same.

1200-12-01-.04(1)(c) includes the scope of practice for a licensed Emergency Medical Technician (EMT). The rule allows the EMT to provide basic emergency medical care under medical direction for critical, emergent, and non-emergent patients accessing the emergency medical system. The rule requires a licensed EMT to possess, at a minimum, skills defined by the current National Model Scope of Practice and Educational Standards. It further allows the EMTs scope of practice to be extended to include skills the Board authorizes and approves. The old rule did not include the same.

1200-12-01-.04(1)(d) includes the scope of practice for a licensed Advanced Emergency Medical Technician (AEMT). The rule allows the AEMT to provide basic and limited advanced emergency medical care under medical direction for critical, emergent, and non-emergent patients accessing the emergency medical system. The rule requires a licensed AEMT to possess, at a minimum, skills defined by the current National Model Scope of Practice and Educational Standards. It further allows the AEMT's scope of practice to be extended to include skills the Board authorizes and approves. The old rule did not include the same.

1200-12-01-.04(1)(e) includes the scope of practice for a licensed Paramedic. The rule allows the Paramedic to provide basic and advanced emergency medical care under medical direction for critical, emergent, and non-emergent patients accessing the emergency medical system. The rule requires a licensed Paramedic to possess, at a minimum, skills defined by the current National Model Scope of Practice and Educational Standards. It further allows the Paramedic's scope of practice to be extended to include skills the Board authorizes and approves. The old rule did not include the same.

1200-12-01-.04(2)(a) delineates requirements for initial certification as an EMR, including the following as additional requirements: 1) the applicant may not have documented history within the past three years of habitual intoxication or personal misuse of drugs so as to adversely affect the applicant's ability to practice; 2) the applicant must complete all requirements for certification within two years of completing training or his application will be abandoned; and, 3) the validity of initial EMR certification will not exceed thirty-six months. The old rule does not include the same.

1200-12-01-.04(2)(b) includes post initial certification requirements for methodology allowing an EMR to obtain extended skills that were not included in initial training. The old rule does not include the same.

1200-12-01-.04(2)(c) delineates EMR renewal requirements. Those requirements include the requirement that if an EMR is using continuing education contact hours for renewal purposes, at least two of those hours must be in pediatric related topics. The old rule does not include the same.

1200-12-01-.04(2)(d) delineates reinstatement requirements for EMR certification. The old rule does not include the same.

1200-12-01-.04(2)(e) requires that EMRs applying for reinstatement of their certification more than sixty days after expiration of previous certification must present documentation of successful completion of a Board approved refresher course. The old rule does not include the same.

1200-12-01-.04(3) delineates initial licensure procedure for all licensed emergency medical services personnel. The old rule does not include the same.

1200-12-01-.04(3)(a)9 requires an applicant for emergency service personnel licensure to disclose circumstances surrounding any of the following: 1) criminal conviction; 2) denial or discipline of licensure/certification in any state; or, 3) loss or restriction of licensure or certification. The old rule does not include the same.

1200-12-01-.04(3)(a)10 delineates that if requirements for application for emergency services personnel licensure is not completed within two years, the application shall be considered abandoned. The old rule does not include the same.

1200-12-01-.04(3)(a) 12 allows a submitted criminal background check to be valid for one year. The old rule does not include the same.

1200-12-01-.04(3)(b)1 includes a procedure allowing EMTs who have shown proficiency for licensure at that level to obtain an AEMT license without first obtaining an EMT license. The old rule did not include the same.

1200-12-01-.04(3) includes the requirement that all applicants for initial licensure as emergency services personnel, except EMT, submit evidence of good moral character including at least two original letters from medical professionals. The old does not include the same.

1200-12-01-.04(3)(c) includes specific requirements for initial licensure as an AEMT. The old rule does not include the same.

1200-12-01-.04(3)(d) includes requirements specific for initial licensure as a Paramedic. The old rule does not include the same.

1200-12-01-.04(3)(e) delineates necessary requirements for licensed emergency services personnel to obtain extended skills. The old rule does not include the same.

1200-12-01-.04(4)(a)4(ii) requires EMTs using continuing education contact hours for renewal to complete twenty (20) Board approved continuing education contact hours; a minimum of five (5) must be in pediatric related topics. The old rule does not include the same.

1200-12-01-.04(4)(a)5(ii) requires AEMTs using continuing education contact hours for renewal to complete twenty-five (25) Board approved continuing education contact hours; a minimum of eight (8) must be in pediatric related topics. The old rule does not include the same.

1200-12-01-.04(4)(a)6(ii) requires Paramedics using continuing education contact hours for renewal to complete thirty-two (32) Board approved continuing education contact hours; a minimum of eight (8) must be in pediatric related topics. The old rule does not include the same.

1200-12-01-.04(4)(b) allows discipline of licensed emergency medical services personnel for violation of the EMS practice act. The old rule does not include the same.

1200-12-01-.04(4)(c) allows a sixty (60) day grace period for late certificate or license renewal. The old rule does not include the same.

1200-12-01-.04(4)(d)2 delineates reinstatement requirements for a licensee whose license has lapsed greater than sixty days but less than one year. The old rule does not include the same.

1200-12-01-.04(4)(d)3 delineates reinstatement requirements for a licensee whose license has lapsed greater than one year but less than two years. The old rule does not include the same.

1200-12-01-.04(4)(d)4 delineates reinstatement requirements for an EMT or AEMT whose license has lapsed more than two years. The old rule does not include the same.

1200-12-01-.04(4)(d)5 delineates reinstatement requirements for a Paramedic whose license has lapsed more than two years. The old rule does not include the same.

1200-12-01-.04(5) is amended to include reciprocity requirements for an AEMT. The old rule does not include the same.

1200-12-01-04(7) is amended to include requirements for retirement and title privilege for an AEMT license. The old rule does not include the same.

1200-12-01-.04(7)(a)2 is added to require that emergency medical services personnel may not retire a license with pending disciplinary action from this state or any other state until said pending disciplinary action is concluded. The old rule does not include the same.

1200-12-01-04(9) is amended to allow a currently licensed AEMT to downgrade his license. The old rule does not include the same.

1200-12-01-04 Emergency Medical Technician (EMT) is amended by deleting it in its entirety and substituting in its place new rule 1200-12-01-.04 Emergency Medical Services Personnel Certification and Licensure. The old rule does not include the same.

1200-12-01-.13 EMT and EMT Paramedic Training Programs is amended by deleting it in its entirety and substituting in its place new rule 1200-12-01-13 EMT, AEMT and Paramedic Language Programs. The old rule does not include the same.

1200-12-01-.13(1) is amended to add definitions of the following terms for the purposes of this rule only: "Approval," "Approved Program," "EMS Educational Institution," "Medical Director," "National Accreditation," and "National Education Standards". The old rule did not include the same.

1200-12-01-13(2) sets standards for all EMS educational programs, including AEMT programs. The old rule did not include the same.

1200-12-01-.13(2)(a) requires all EMS educational institutions sponsoring EMT, AEMT, or Paramedic education programs to ensure that its programs conform, at a minimum to the national educational standards developed from the National Scope of Practice for Emergency Medical Service Personnel, which the Board has approved, and such rules the Board shall promulgate. The old rule does not include the same.

1200-12-01-.13(2)(b) requires all EMS educational institutions to adopt, at a minimum , all parts of the curricula as developed from the national education standards which the EMS board has adopted. The old rule does not include the same.

1200-12-01-.13(2)(c) sets qualifying standards for EMS educational institutions sponsoring EMS training programs. The old rule does not include the same.

1200-12-01-.13(2)(f) includes criteria for awarding and revoking approval of EMS education training programs. The rule amendment includes, at 1200-12-01-.13(f)3, that the Board may grant approval for a period of five (5) years. The old rule did not include the same.

1200-12-01-.13(2)(g) requires all programs to maintain, on first attempt for licensure, an annual pass rate as approved by the Board. The rule delineates consequences for failure to maintain same. The old rule did not include this requirement.

1200-12-01-.13(2)(h) sets for requirements for Board approval for all EMS educational programs, including AEMT educational training programs. Requirements are essentially the same as the old rule, but the old rule did not include AEMT educational training programs.

1200-12-01-13(3) sets requirements specific to Paramedic Education Programs. The old rule does not include the same.

1200-12-01-.13(3)(a) requires that upon initial approval by the Board, all paramedic programs make application to the Committee on Accreditation for Emergency Medical Services and receive a letter of review from the Commission of Accreditation of Allied Health Education Programs (CAAHEP) and be accredited within four (4) years of initial application of CAAHEP. The old rule did not include the same.

1200-12-01-.13(3)(b) requires all Paramedic programs to maintain accreditation with CAAHEP. The old rule did not include the above.

1200-12-01-.13(3)(c) sets additional requirements for admission into a paramedic training program that are not required for admission into other educational training programs. The old rule did not include the same.

Rule 1200-12-01-.16(1)(a) Emergency Medical First Responders is amended by substituting the language "Emergency Medical Responder (First Responder)" for the term "First Responder." The old rule did not include the same.

Rule 1200-12-01-.16(1)(b) Emergency Medical First Responders is amended by substituting the language "Emergency Medical Responder (First Responder) Certification" for the term "First Responder Certification." The old rule did not include the same.

Rule 1200-12-01-.16(1)(b) Emergency Medical First Responders is amended by substituting the language "Emergency Medical Responder (First Responder) Course" for the term "First Responder Course." The old rule did not include the same.

Rule 1200-12-01-16(3) Emergency Medical First Responders is amended by substituting the language "Emergency Medical Responder (First Responder) Training Programs" for the term "First Responder Training Programs." The old rule did not include the same.

Rule 1200-12-01-.16 Emergency Medical First Responders is amended by deleting paragraphs (4) and (6) in their entirety. They have been moved to Rule 1200-12-01-.04 Emergency Medical Services Personnel using the new emergency medical services personnel classification of "Emergency Medical Responder."

Public Hearing Comments

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

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

TENNESSEE BOARD OF EMERGENCY MEDICAL SERVICES

The rulemaking hearing for the Tennessee Board of Emergency Medical Services was held on March 29, 2012 and the continued rulemaking was held on June 20, 2012 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Lucille F. Bond, Assistant General Counsel, Department of Health, presided over the meeting.

1. Comment: A comment was made referencing a typographical error in Rule 1200-12-01-.04(5) concerning reciprocity requirements.

Board: The typographical error was corrected which clarified confusion with reciprocity requirements.

2. Comment: There were several written and verbal comments concerning confusion in the scopes of practice for the different levels of licensure, and which procedures could be performed at each level of licensure.

Board: The proposed rules which included specific language concerning scope of practice for all levels of licensure were amended to state the scope of practice would adhere to the National EMS Scope of Practice Model and National EMS Education Standards and a document will be placed on the Division website outlining such specifications.

3. Comment: There was confusion regarding the term "medical oversight" as to whether it concerned medical oversight during an emergency transport or medical oversight over an ambulance service.

Board: The term "medical oversight" was changed to "medical direction" and the statutory definition of "medical direction" was used. Further, the definition of "standing orders" was clarified.

4. Comment: There were several comments made suggesting the term "non-emergent" should be added to the definitions of "emergency medical technician," "advanced emergency medical technician" and "paramedic."

Board: The term "non-emergent" was added to the applicable definitions.

5. Comment: Several written and verbal comments were received expressing a concern over the increased number of continuing education credits which will be required for renewal of a license.

Board: The Board decreased the number of continuing education contact hours from forty (40) at the Paramedic level to thirty-two (32) and decreased the number of continuing education contact hours from thirty (30) to twenty-five (25) at the AEMT level in the proposed rule. The pediatric hours were decreased from ten (10) to (8) at the Paramedic level.

6. Comment: A comment was received expressing concern that the requirement of demonstrating tested proficiency in reading, writing and math, at, or above, twelfth (12th) grade level for an applicant to enter into paramedic training was too stringent.

Board: The Board deleted the requirement that applicants for Paramedic training demonstrate tested proficiency in reading, writing and math at, or above twelfth (12th) grade level.

7. Comment: Several comments were received questioning the need for a letter of recommendation to advance to an advanced emergency medical technician and paramedic.

Board: The Board declined to change the rule requiring a letter of recommendation from a healthcare professional for licensure as an AEMT or Paramedic.

8. Comment: A comment was received suggesting that proof of current registration with the National Registry of Emergency Medical Technicians be accepted as proof of continuing education.

Board: The Board declined to accept proof of current registration with the National Registry of Emergency Medical Technicians as an alternative to CEU for certification renewal since registration with the National Registry already contains those CEU components and specific language is not needed in the rule.

9. Comment: A comment was made requesting that the Board clarify the instructor/student ratio required for EMS education programs.

Board: The Board stated the instructor/student ration was approved by the Board several years ago and is 1/12 for labs and there is no limit on class size on the didactic portion of an EMS training course.

10. Comment: A comment was made requesting a clarification of the term "pass rate."

Board: The Board added the language "for first attempt at licensure" to clarify the meaning of "pass rate" regarding EMS educational programs.

11. Comment: A concern was expressed regarding the financial requirements for approval as an EMS education program as stated in the proposed rules, particularly regarding the presentation of a distinct budget.

Board: The Board deleted the requirement for educational institutions to present a distinct budget since this is implied in the requirement that institutions have sufficient resources to carry out a program.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

- (1) The proposed rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The proposed rules exhibit clarity, conciseness, and lack of ambiguity.
- (3) The proposed rules are not written with special consideration for the flexible compliance and/or requirements because the licensing boards have, as their primary mission, the protection of the health, safety and welfare of Tennesseans. However, the proposed rules are written with a goal of avoiding unduly onerous regulations. The rules are written to amend the requirements for air ambulances in the state of Tennessee.
- (4) The compliance requirements throughout the proposed rules are as "user-friendly" as possible while still allowing the division to achieve its mandated mission in licensing and regulating emergency medical services. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow services and providers to come into compliance with the proposed rules.
- (5) Compliance requirements in the proposed rules are not consolidated or simplified for small businesses for the protection of the health, safety and welfare of Tennesseans.
- (6) The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards for small businesses.
- (7) There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Department of Health, Board of Emergency Medical Services

Rulemaking hearing date: June 20, 2012

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

These rule changes only affect emergency medical service individual personnel licensees. They do not affect ambulance service licensees. The impact on small businesses is, therefore, expected to be negligible.

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

The rule changes impact individual EMS personnel licensees and educational programs only. The rule changes would have minimal effect on any small businesses.

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

It is unlikely that the attached rules would directly benefit small businesses.

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

The rule changes are not expected to adversely impact small businesses.

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

The Department of Health, Board of Emergency Medical Services does not believe there are less burdensome alternatives to the proposed rule amendments.

Comparison of the proposed rule with federal or state counterparts:

Federal: None.

State: The proposed rule amendments will have no state counterpart because the Department of Health, Board of Emergency Medical Services is the only agency in Tennessee charged with regulating licensed emergency medical services personnel.

Other states, as reflected below, are changing their rules and statutes to reflect changes recommended by the National Highway Traffic Safety Administration in scope of practice for EMS personnel.

Nebraska: Neb. Rev. St. § 38-1217 created emergency medical responder, emergency medical technician, advanced emergency medical technician and paramedic as categories of licensure effective September 1, 2010.

Idaho: 18 IC § 56-1012(15) created emergency medical responder, emergency medical technician, advanced emergency medical technician and paramedic as categories of licensure.

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 amendments to the rules are not expected to have an impact on local governments.

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For Department of State Use Only

Sequence Number: 01-10-13
 Rule ID(s): 5359
 File Date: 11/11/13
 Effective Date: 4/11/13

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Department of Health
Division:	Emergency Medical Services
Contact Person:	Lucille F. Bond
Address:	220 Athens Way, Suite 210 Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Lucille.F.Bond@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-12-01	General Rules
Rule Number	Rule Title
1200-12-01-.04	Emergency Medical Technician (EMT)
1200-12-01-.13	EMT and EMT Paramedic Training Programs
1200-12-01-.16	Emergency Medical First Responders

(Rule 1200-12-01-.03, continued)

- (d) A length-based drug dosage tape for pediatric resuscitation shall be supplied. (2002 Broselow™ or successor edition.)
- (13) Air ambulances shall provide equipment as required in Rule 1200-12-01-.05.
- (14) Equipment requirements as detailed in (3) to (12) shall not apply to vehicles used solely for neonatal critical care transport. Neonatal transport equipment and supplies shall conform to the standards adopted in the Tennessee Perinatal Care System Guidelines for Transportation, Tennessee Department of Health, Maternal and Child Health Section, September, 2001, or the successor publication.
- (15) Inspections of equipment and supplies reflecting deficiencies in essential (E) items or multiple deficiencies of minimum (M) items shall be grounds for failure of inspection. Five or fewer deficiencies or shortage of supplies termed minimal (M) shall receive a warning. Conditional acceptance during inspection may be recognized by the Division's representative when good faith efforts are demonstrated by the provider to acquire or repair minimal equipment, subject to a recheck of any conditional device within forty-five (45) days of the initial inspection.
- (16) Equipment cited for Emergency Medical First Responder vehicles shall be in addition to minimal supplies cited in Rule 1200-12-01-.16.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-140-504, 68-140-505, 68-140-506, and 68-140-507.
Administrative History: Original rule filed March 20, 1974; effective April 19, 1974. Amendment filed February 8, 1983; effective May 16, 1983. Amendment filed November 30, 1984; effective February 12, 1985. Amendment filed August 22, 1985; effective September 21, 1985. Amendment filed April 8, 1987; effective May 23, 1987. Amendment filed March 7, 1989; effective April 21, 1989. Repeal and new rule filed January 7, 1997; effective March 23, 1997. Repeal and new rule filed November 16, 2005; effective January 30, 2006. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed August 7, 2009; effective November 5, 2009. Amendments filed May 26, 2010; effective August 24, 2010.

~~1200-12-01-.04 EMERGENCY MEDICAL TECHNICIAN (EMT). All persons desiring licensure as an Emergency Medical Technician pursuant to T.C.A. Title 68, Chapter 140 must comply with the following requirements and standards:~~

- ~~(1) Emergency Medical Technician Licensure Requirements~~
 - ~~(a) Must be at least eighteen (18) years of age.~~
 - ~~(b) Be able to read, write, and speak the English language.~~
 - ~~(c) Must possess an academic high school diploma or a general equivalency diploma (G.E.D).~~
 - ~~(d) Must have no history within the past three years of habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person's ability to practice as an emergency medical technician.~~
 - ~~(e) Must present evidence to the Division of Emergency Medical Services of a medical examination certifying physical health sufficient to conduct activities associated with patient care, including, but not limited to, visual acuity, speech and hearing, use of all extremities, absence of musculoskeletal deformities, absence of communicable diseases, and suitable emotional fitness to provide for the care and lifting of the ill or injured. This information shall be provided on a form approved by the Board and shall be consistent with the provisions of the Americans with Disabilities Act and the requirements of National Registry of Emergency Medical Technicians.~~

(Rule 1200-12-01-.04, continued)

- ~~(f) Must successfully complete an approved basic Emergency Medical Technician course including all license examinations.~~
 - ~~1. Written Examination~~
 - ~~(i) Achieve a passing score on a Board approved written examination with a minimum score as established by the Board.~~
 - ~~(ii) Applicants who fail to pass the examination shall be eligible to reapply for examination.~~
 - ~~2. Practical Examination~~
 - ~~(i) All applicants must successfully complete an EMS Board approved practical examination.~~
 - ~~(ii) Applicants who fail to pass the practical examination shall be eligible to reapply for examination.~~
 - ~~3. All applicants must complete all requirements for licensure within two (2) years of completion of the training course and program.~~
 - ~~(g) Must submit an Application for Licensure form as provided by the Division of Emergency Medical Services.~~
 - ~~(h) Must remit the appropriate licensure and application fees, if applicable, as determined under rule 1200-12-01-.06.~~
 - ~~1. An applicant shall cause to be submitted to the administrative office of the Division of Emergency Medical Services, directly from the vendor identified in the Division's licensure application materials, the result of a criminal background check.~~
- ~~(2) EMT Paramedic Requirements~~
- ~~(a) Must meet all the Emergency Medical Technician licensure requirements in paragraph (1).~~
 - ~~(b) Must successfully complete an EMT Paramedic course accredited or recognized by the Division of Emergency Medical Services of the Tennessee Department of Health.~~
 - ~~(c) Must successfully complete an EMS Board approved Emergency Medical Technician Paramedic level course and all license examinations.~~
 - ~~1. Written Examination~~
 - ~~(i) Achieve a passing score on a Board approved written examination with a minimum score as established by the Board.~~
 - ~~(ii) Applicants who fail to pass the examination shall be eligible to reapply for examination.~~
 - ~~2. Practical Examination~~

(Rule 1200-12-01-.04, continued)

- ~~(i) An EMS Board approved practical examination must be successfully completed by all applicants.~~
 - ~~(ii) Applicants who fail to pass the practical examination shall be eligible to reapply for examination.~~
- ~~3. All applicants must complete all requirements for licensure within two (2) years of completion of the training course and program.~~
- ~~(d) Must submit an Application for Licensure form as provided by the Division of Emergency Medical Services.~~
 - ~~(e) Must remit the appropriate licensure and application fees, if applicable, as determined under rule 1200-12-01-.06.~~
- ~~(3) Responsibilities of the Emergency Medical Technician when providing patient care:~~
- ~~(a) The EMT shall perform initial patient survey, shall provide emergency care through careful assessment of the patient, and shall recognize injuries and illness. The EMT shall also gain knowledge of pre-existing medical conditions, previously prescribed medications, medical preference, and identification of the patient.~~
- ~~1. Emergency Medical Technicians and Emergency Medical Technician-Paramedics shall be permitted to perform extended skills or procedures when such treatment is conducted under authorized medical control.~~
- ~~The following definitions shall apply under this part:~~
- ~~(i) "Medical Control" shall mean the instruction and advice provided by a physician and the orders by a physician or nurse authorized under written agreement which define the treatment of a patient, where direct communication, written protocols, or standing orders are provided, and such procedures are in accordance with locally or regionally approved medical practices.~~
 - ~~(ii) "Protocols" shall mean a ranking or formal listing of procedures that may be utilized for patient care after physician or medical facility communications have been established.~~
 - ~~(iii) "Standing Orders" shall mean orders based on an agreement established by a medical practitioner, or the staff of a medical facility or association, delegating authority to agents within their control to commence treatment and authorizing procedures for patient care that may be utilized until the patient is presented for continuing medical care.~~
- ~~2. Emergency Medical Technicians or students during training in an accredited program may receive instruction in extended skills and authorization for procedures, including the administration or use of physician controlled devices for:~~
- ~~(i) treatment of anaphylaxis with epinephrine, respiratory distress with inhaled bronchodilators, suspected chest pain with aspirin and suspected cardiac conditions with lingual or sublingual nitroglycerine;~~
 - ~~(ii) airway management with Board approved airway procedures;~~

(Rule 1200-12-01-.04, continued)

- ~~(iii) venipuncture and intravenous fluid therapy with EMS Board approved solutions; and~~
 - ~~(iv) treatment of hypoglycemia with blood glucose monitoring and administration of intravenous dextrose solutions.~~
3. ~~Emergency Medical Technician Paramedics or students during training in accredited programs may utilize the following procedures under medical control.~~
- ~~(i) perform electrocardiographic monitoring, recognize and treat cardiac dysrhythmias~~
 - ~~(ii) perform gastric, esophageal, or tracheal intubation and suction.~~
 - ~~(iii) administer intravenous solutions or blood products by peripheral venipuncture of scalp, extremities, and external jugular veins or intraosseous infusions, or by pre-established indwelling lines.~~
 - ~~(iv) administer by oral, parenteral, endotracheal, or other indicated means, medications of any of the following classes of drugs:~~
 - ~~(I) antiarrhythmic agents~~
 - ~~(II) chronotropic agents~~
 - ~~(III) vagolytic agents~~
 - ~~(IV) analgesic agents~~
 - ~~(V) alkalinizing agents~~
 - ~~(VI) vasopressor agents~~
 - ~~(VII) anticonvulsive agents; and~~
 - ~~(VIII) other drugs which may be deemed necessary by the ordering physician.~~
 - ~~(v) perform chest decompression~~
 - ~~(vi) perform cricothyrotomy~~
4. ~~Emergency Medical Services personnel may defer administration of extended skills or treatment under the following circumstances:~~
- ~~(i) when the technician acknowledges inadequate proficiency to perform the procedure;~~
 - ~~(ii) when the technician cannot understand the orders or the situation limits control at the scene of the emergency; or~~
 - ~~(iii) when the procedure is judged to be inappropriate to the condition of the patient, the EMT or EMT-Paramedic should so advise the physician providing such orders, within prudent and professional conduct.~~

(Rule 1200-12-01-.04, continued)

- ~~(b) The EMT shall render necessary emergency care through supportive assistance for conditions requiring transport for definitive medical care including medical emergencies, behavioral emergencies, illness, disease or infirmity.~~
- ~~(c) The EMT shall report essential information concerning the patient, the patient's medical condition, and treatment to the medical personnel who assume responsibility for continuing care of the patient.~~
- ~~(d) The EMT shall effectively utilize EMS Telecommunications for coordination and information exchange with EMS dispatchers, medical facilities, physicians, and systems users, and shall conduct radio transmissions appropriately with regard for rules, regulations, and procedures.~~
- ~~(e) Emergency Medical Services personnel authorized by the Division shall maintain a current course completion certificate in basic life support procedures at the professional rescuer/health care provider level.~~
- ~~(4) License Classification for the Emergency Medical Technician. Upon remitting the license fee, if applicable, and approval of the appropriate application, individuals completing license procedures will be licensed in a category representative of the experience and additional qualifications recognized by the Division of Emergency Medical Services:~~

 - ~~(a) Emergency Medical Technician: a person who has successfully completed the EMT training course and who has qualified by examinations to perform pre-hospital emergency patient care. Upon demonstration of additional training and successful completion of qualifying examinations, the EMT may initiate and administer intravenous fluid therapy, and other procedure(s) approved by the EMS Board as listed in paragraph (3), upon the order of a physician or authorized registered nurse.~~
 - ~~(b) Emergency Medical Technician-Paramedic: a person who has successfully completed an accredited program in Tennessee for Emergency Medical Technician-Paramedics or comparable training and education in another state, and received endorsement from the training institution; who has successfully completed written and practical qualifying examinations; and who is licensed to practice advanced emergency medical care upon the order or under the supervision of a physician or authorized registered nurse.~~
 - ~~(c) Licensures in categories previously established by the EMS Board shall continue in effect until expiration or renewal within the categories established above.~~
- ~~(5) Violation of proscribed acts of the EMT and EMT-Paramedic as listed in T.C.A. §68-140-511 shall be cause for revocation, suspension, or denial of license renewal.~~
- ~~(6) License Renewal Requirements:~~

 - ~~(a) Emergency Medical Technicians shall qualify for license renewal by completing the following requirements:~~

 - ~~1. Submit the renewal application and appropriate fee (if applicable) with documentation of all requirements prior to the expiration date of the license cycle.~~
 - ~~2. Submit proof of current registration with the National Registry of Emergency Medical Technicians; or~~
 - ~~3. Complete a patient care-oriented license renewal examination with a minimum score of seventy percent (70%); or~~

(Rule 1200-12-01-.04, continued)

4. ~~Complete two (2.0) Continuing Education Units (CEU) or two (2.0) college credit hours (semester) in EMT-related studies, as approved by the Division.~~
 - (i) ~~The due date for completion of the required continuing education is the expiration date of the EMT's license renewal.~~
 - (ii) ~~All EMT's must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested by the Division during its verification process. Certificates verifying the individual's completion of the continuing education program(s) shall consist of one or more of the following:~~
 - (I) ~~continuing education program's sponsor, date, length in hours awarded, program title, licensed individual's name, and license number; or~~
 - (II) ~~an original letter on official stationery from the continuing education program's sponsor indicating date, length in hours awarded, program title, licensed individual's name, and license number.~~
5. ~~Dates for license renewal examinations will be scheduled by the Division and approved by the EMS Board.~~
 - (b) ~~Emergency Medical Technician-Paramedics shall qualify for license renewal by completing the following requirements.~~
 1. ~~Submit the renewal application and appropriate fee (if applicable) with documentation of all requirements prior to the expiration date of the license cycle.~~
 2. ~~Submit proof of current registration with the National Registry of Emergency Medical Technicians; or~~
 3. ~~Complete a license renewal examination with a minimum score of seventy percent (70%); or~~
 4. ~~Complete three (3.0) Continuing Education Units or three (3.0) college credit hours (semester) in EMT or paramedical related studies, as approved by the Division.~~
 - (i) ~~The due date for completion of the required continuing education is the expiration date of the EMT-P's license renewal.~~
 - (ii) ~~All EMT-P's must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested by the Division during its verification process. Certificates verifying the individual's completion of the continuing education program(s) shall consist of one or more of the following:~~

(Rule 1200-12-01-.04, continued)

- (I) ~~continuing education program's sponsor, date, length in hours awarded, program title, licensed individual's name, and license number; or~~
 - (II) ~~an original letter on official stationery from the continuing education program's sponsor indicating date, length in hours awarded, program title, licensed individual's name, and license number.~~
5. ~~Dates for license renewal examinations will be scheduled by the Division and approved by the EMS Board.~~
6. ~~EMT-Paramedic renewal shall qualify for renewal of the EMT license.~~
- (c) ~~License renewal examinations and continuing education units will not be required of persons when a license expiration date is assigned for periods of less than one (1) year. Proportional adjustments may be made in continuing education unit requirements.~~
- (7) ~~Reinstatement of a lapsed license~~
- (a) ~~Emergency Medical Technician~~
 - 1. ~~When the license has lapsed for one (1) year or less, an individual may reinstate the license by meeting and completing all applicable license and license renewal standards, successfully completing the EMT license written examination (attaining a minimum score as established by the Board) and submitting all applicable fees.~~
 - 2. ~~When the license has lapsed for more than one (1) year, but less than two (2) years an individual may reinstate the license by completion of an EMS Board approved refresher course, achieving a passing score on a Board approved written examination with a minimum score as established by the Board, and successfully completing an EMS Board approved practical examination, and submitting all applicable fees.~~
 - 3. ~~When the license has lapsed for two (2) years or more, an individual must complete the EMT course in its entirety and comply with license requirements in effect under paragraph (1).~~
 - (b) ~~The EMT-Paramedic~~
 - 1. ~~When the license has lapsed for one (1) year or less, an individual may reinstate the license by meeting and completing all applicable license and license renewal standards, successfully completing the Board approved EMT-P license written examination (attaining a minimum score as established by the Board), and submitting all applicable fees.~~
 - 2. ~~When the license has lapsed for more than one (1) year, but less than two (2) years an individual may reinstate the license by completion of an EMS Board approved EMT-P refresher course, achieving a passing score on a Board approved Paramedic written examination with a minimum score as established by the Board, successfully completing an EMS Board approved EMT-P practical examination, and submitting all applicable fees.~~
 - 3. ~~When the license has lapsed for two (2) years or more, an individual must complete the EMT-Paramedic course in its entirety and comply with license requirements in effect under paragraph (2).~~

(Rule 1200-12-01-.04, continued)

- ~~(c) For the purpose of renewal of a Emergency Medical Technician license which has expired, the EMS Board authorizes the Department to renew and condition the license for "Good Cause" when the Division receives written notification and a request for consideration within sixty (60) days of expiration. If no notification is initiated by the individual, then "Good Cause" cannot be applied.~~
- ~~1. "Good Cause" for delayed compliance with the regulations shall include:

 - ~~(i) personal illness or hospitalization;~~
 - ~~(ii) extensive travel or relocation within the affected time period;~~
 - ~~(iii) conflicting professional or educational schedules (military);~~
 - ~~(iv) immediate family illness or death; or~~
 - ~~(v) extraordinary circumstances beyond the control of the licensee.~~~~
 - ~~2. The following reasons shall not constitute "Good Cause":

 - ~~(i) failure to submit necessary forms or fees by the expiration date;~~
 - ~~(ii) willful defiance of rules; or~~
 - ~~(iii) possession of an expired license for more than sixty one (61) days without inquiry to the Division concerning renewal status.~~~~
- ~~(d) Persons who have completed a continuing education or renewal examination within their prior license period may reinstate an expired license by submitting appropriate documentation, the license fee and renewal application, and the reinstatement fee of twenty-five dollars (\$25.00) within sixty (60) days of their expiration date.~~
- ~~(8) Out-of-state requirements for License. Any EMT or EMT-Paramedic who holds current certification/license from another state or country and who has successfully completed an approved U.S. Department of Transportation EMT or EMT-Paramedic course or equivalent curriculum may apply for Tennessee EMT or EMT-Paramedic license by complying with the following:~~
- ~~(a) conform to all license requirements for Tennessee Emergency Medical Technicians or EMT-Paramedics; and~~
 - ~~(b) submit appropriate documentation of extended skills training conducted by an authorized instructor of a Tennessee Accredited EMS Training Institution; or documentation of extended skills training from an authorized training agency of another state or country; and~~
 - ~~(c) successful completion of any EMS Board approved written and practical examinations; and;~~
 - ~~(d) submit the appropriate application forms and fees, if applicable, to the Division of Emergency Medical Services.~~
- ~~(9) Out-of-state requirements for License of federal or ex-federal employees. Any EMT or EMT-Paramedic who has successfully completed an approved U.S. Department of Transportation EMT Basic or EMT Paramedic course while employed with the federal government and who~~

(Rule 1200-12-01-.04, continued)

~~holds current certification from National Registry of Emergency Medical Technicians for the Emergency Medical Technician-Basic or Emergency Medical Technician-Paramedic may apply for Tennessee EMT or EMT-Paramedic license by complying with the following:~~

- ~~(a) conform to all license requirements for Tennessee Emergency Medical Technicians or EMT-Paramedics; and~~
 - ~~(b) submit appropriate documentation of extended skills training conducted by an authorized instructor of a Tennessee Accredited EMS Training Institution; or documentation of extended skills training from a federally approved training agency; and~~
 - ~~(c) submit the appropriate application forms and fees, if applicable, to the Division of Emergency Medical Services.~~
- ~~(10) Personnel licensed by the Department, upon a change of name or address shall notify the Division of Emergency Medical Services in writing within thirty (30) days of such change. Notifications for renewal or disciplinary action shall be posted to the address listed on file with the Division and, unless returned by the post office, shall constitute effective notice for renewal or action upon license status. Return by the post office shall be interpreted as a willful violation for failure to retain a current address on file.~~
- ~~(11) Retirement of an EMS professional license~~
- ~~(a) A currently licensed EMT or EMT-P who wishes to permanently retire his or her license shall submit the following information to the Division:
 - ~~1. A properly completed permanent retirement affidavit form to be furnished by the Division.~~
 - ~~2. Other documentation which may be required by the Division pursuant to this purpose.~~~~
 - ~~(b) Any EMS professional who has filed the required information for permanent retirement of his or her license shall be permitted to use the appropriate title:
 - ~~1. For emergency medical technicians, EMT Retired or EMTR.~~
 - ~~2. For emergency medical technician-paramedics, EMT-Paramedic Retired, or EMT-PR.~~~~
- ~~(12) Reinstatement of a retired EMS professional license.~~
- ~~(a) A reinstatement applicant whose license has been retired two years or less may reinstate his or her license by completing the following requirements:
 - ~~1. Payment of all past due renewal fees, reinstatement, and state regulatory fees pursuant to Rule 1200-12-01-.06; and~~
 - ~~2. Submission of documentation to prove satisfactory health and good character.~~~~
 - ~~(b) If a reinstatement applicant's license has been retired for more than two years, an applicant must complete refresher training requirements and written and practical examinations that have been approved by the board for the level of licensure for which reinstatement has been applied.~~

(Rule 1200-12-01-.04, continued)

1200-12-01-.04 Emergency Medical Services (EMS) Personnel Certification and Licensure.

(1) Scope of Practice for Emergency Medical Services Personnel.

(a) Definitions. Terms used in this rule shall be defined as follows:

1. "Advanced Emergency Medical Technician (AEMT)" means a person who has successfully completed the Advanced Emergency Medical Technician training course, has qualified by examinations to perform pre-hospital emergency patient care, and provides basic and limited advanced emergency medical care, under medical direction, pre-hospital and during transportation for critical, emergent, and non-emergent patients who access the emergency medical system.
2. "Board" means the Tennessee Emergency Medical Services Board.
3. "Department" means the Tennessee Department of Health.
4. "Division" means the Division of Emergency Medical Services.
5. "Emergency Medical Responder (EMR)" means a person who has successfully completed the Emergency Medical Responder training course and has qualified by examinations to perform lifesaving interventions while awaiting additional EMS response and to assist higher level personnel at the scene and during transport, under medical direction.
6. "Emergency Medical Technician (EMT)" means a person who has successfully completed the Emergency Medical Technician training course, has qualified by examinations to perform pre-hospital emergency patient care, and provides basic emergency medical care, under medical direction, pre-hospital and during transportation for critical, emergent and non-emergent patients who access the emergency medical system.
7. "Medical Direction" means the supervision by a physician licensed to practice in the state of Tennessee of all medical aspects of patient care within Emergency Medical Services.
8. "Paramedic" means a person who has successfully completed an accredited Paramedic Program at the certificate or associate degree level, has qualified by examinations to perform pre-hospital emergency patient care, and provides basic and advanced emergency medical care, under medical direction, pre-hospital and during transportation for critical, emergent and non-emergent patients who access the emergency medical system.
9. "Protocols" mean a ranking or formal listing of procedures approved by an EMS service's medical director that may be utilized for patient care after physician or medical facility communications have been established.
10. "Standing Orders" mean orders based on an agreement established by an EMS service's medical director, delegating authority to agents within their control to commence treatment and authorizing procedures for patient care that may be utilized until the patient is presented for continuing medical care.

(Rule 1200-12-01-.04, continued)

(b) Scope of Practice for Certified Emergency Medical Responder (EMR).

1. An EMR will perform lifesaving interventions while awaiting additional EMS response and will assist higher level personnel at the scene and during transport.
2. An EMR functions as part of a comprehensive EMS response, under medical direction.
3. A certified EMR shall possess, at a minimum, skills as defined by the current National EMS Scope of Practice Model and National EMS Education Standards.
4. An EMR's scope of practice may be extended to include skills the Board authorizes and approves.

(c) Scope of Practice for a Licensed Emergency Medical Technician (EMT).

1. An EMT will provide basic emergency medical care for critical, emergent and non-emergent patients who access the emergency medical system.
2. An EMT functions as part of a comprehensive EMS response, under medical direction.
3. The EMT's scope of practice includes, at a minimum, the skills listed within the EMR scope of practice as well as the "Minimum Psychomotor" skills set as identified in the current National EMS Scope of Practice Model and National EMS Education Standards for EMTs, including but not limited to, non-invasive interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies for patients of all ages.
4. An EMT's scope of practice may be extended to include skills the Board authorizes and approves.

(d) Scope of Practice for a Licensed Advanced Emergency Medical Technician (AEMT).

1. An AEMT will provide basic and limited advanced skills that are effective and can be performed safely in an out-of-hospital setting with medical direction and limited training and focused on the acute management and transportation of critical, emergent, and non-emergent patients.
2. An AEMT functions as part of a comprehensive EMS response, under medical direction.
3. The AEMT's scope of practice includes, at a minimum, the skills listed within the EMT scope of practice as well as the "Minimum Psychomotor" skills set identified in the current National EMS Scope of Practice Model and National EMS Education Standards for the AEMT, including but not limited to, basic non-invasive and limited advanced invasive interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies for patients of all ages.
4. An AEMT's scope of practice may be extended to include skills the Board authorizes and approves.

(Rule 1200-12-01-.04, continued)

(e) Scope of Practice for a Licensed Paramedic.

1. A Paramedic will provide basic and advanced skills that are effective and can be performed safely in an out-of-hospital setting with medical direction and advanced training and focused on the acute management and transportation of critical, emergent, and non-emergent patients.
2. Paramedics function as part of a comprehensive EMS response, under medical direction, to perform interventions with the basic and advanced equipment typically found on an ambulance.
3. The Paramedic scope of practice includes, at a minimum, all basic knowledge and skills of an AEMT as well as the "Minimum Psychomotor" skills set identified in the current National EMS Scope of Practice Model and National EMS Education Standards for a Paramedic, including but not limited to, advanced invasive and non-invasive interventions to reduce the morbidity and mortality associated with acute out-of-hospital medical and traumatic emergencies for patients of all ages.
4. A Paramedic's scope of practice may be extended to include skills the Board authorizes and approves.

(2) Emergency Medical Responder Initial Certification, Renewal, and Reinstatement Requirements.

(a) Initial Certification as an EMR. To be eligible for initial certification as an EMR by the Division, an applicant shall meet the following requirements:

1. Be at least seventeen (17) years of age;
2. Be able to read, write and speak the English language;
3. Have no documented history within the past three (3) years of habitual intoxication or personal misuse of any drugs or intoxicating liquors, in such a manner as to adversely affect the applicant's ability to practice as an EMR;
4. Hold a signed current Basic Cardiopulmonary Resuscitation Healthcare Provider card or equivalent;
5. Successfully complete all aspects of a Board approved Emergency Medical Responder course, including but not limited to, attendance requirements;
6. Achieve an established passing score on a Board approved examination within two (2) years of completion of an EMR training course;
 - (i) Applicants who fail to pass the examination shall be eligible to reapply for examination.
7. Applicants must successfully complete all requirements for certification within two (2) years of completion of training.
8. Submit the completed Division-provided application form, along with all required supporting documents and the appropriate certification and application fees in accordance with Rule 1200-12-01-.06.

(Rule 1200-12-01-.04, continued)

9. If an applicant does not complete all requirements for certification within two (2) years of date of initial application, the application shall be considered abandoned and the Division shall destroy it.

10. Validity of initial EMR certification shall not exceed thirty-six (36) months.

(b) Post Initial Certification Requirements for an EMR.

1. An EMR shall receive training and show competency under EMS service authorized medical direction to be permitted to perform Board approved extended skills and/or procedures.

2. The EMS service medical director shall monitor performance through a quality assurance program.

(c) Renewal Requirements for Emergency Medical Responder Certification. To be eligible for renewal of certification as an EMR by the Division, an applicant shall meet the following requirements:

1. File the Division provided renewal application and submission of renewal fees, in accordance with Rule 1200-12-01-.06.

2. Submit a copy of a signed current Basic Cardiopulmonary Resuscitation Healthcare Provider card or equivalent;

3. Submit verification of one of the following:

(i) Successful completion of Board approved refresher training course; or

(ii) Satisfactory completion of the examination as established in part (2)(a)6; or

(iii) Completion of ten (10) Continuing Education Contact Hours, or one (1) college credit hour in EMR related studies, as approved by the Division. A minimum of two (2) hours must be in pediatric related topics.

(l) Documentation of skills competency must also be submitted to the Division administrative office with documentation of continuing education.

(iv) The due date for completion of the required continuing education is the expiration date of the EMR's certification renewal.

(v) All EMR's must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested by the Division during its verification process. Certificates verifying the individual's completion of the continuing education program(s) shall consist of one or more of the following:

(Rule 1200-12-01-.04, continued)

- (I) Continuing education program's sponsor, date, length in hours awarded, program title, certified individual's name, and certificate number; or
- (II) An original letter on official stationery from the continuing education program's sponsor indicating date, length in hours awarded, program title, certified individual's name, and certificate number.

4. Continuing education contact hours shall be obtained through a Division approved agency or institution or program.

5. Validity of renewed EMR certification shall not exceed twenty-four (24) months.

(d) Reinstatement Requirements for Emergency Medical Responder Certification.

1. Those persons who fail to timely renew certification are eligible to apply for reinstatement of their certification as an EMR by the Division, if the applicant completes the following requirements:

- (i) Submits an approved reinstatement application;
- (ii) Submits payment of the reinstatement fee in accordance with Rule 1200-12-01-.06;
- (iii) Submits a copy of a signed current Basic Cardiopulmonary Resuscitation Healthcare Provider card or equivalent.
- (iv) Those persons applying for reinstatement of their certification less than sixty (60) days after expiration of previous certification shall present documentation of successful completion of one of the following:
 - (I) Required continuing education requirements and documentation of skills competency; or
 - (II) The Board approved refresher training course, as established in part (2)(a)5; or
 - (III) The examination, as established in part (2)(a)6.

(e) Those persons applying for reinstatement of their certification sixty (60) days or more after expiration of previous certification shall present documentation of successful completion of both the Board approved refresher training course and the examination as required in parts (2)(a)5 and 6.

(3) Initial Licensure Procedure for Emergency Medical Services Personnel.

(a) All applicants for licensure pursuant to T.C.A. Title 68, Chapter 140 shall comply with the following requirements to be eligible for licensure:

- 1. Be at least eighteen (18) years of age;
- 2. Be able to read, write, and speak the English language;

(Rule 1200-12-01-.04, continued)

3. Possess a minimum of an academic high school diploma or a general equivalency diploma (G.E.D.);
4. Have no documented history within the past three (3) years of habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, in such a manner as to adversely affect the person's ability to practice emergency medical services.
5. Present evidence to the Division of Emergency Medical Services of a medical examination certifying physical health sufficient to conduct activities associated with patient care, including, but not limited to, visual acuity, speech and hearing, use of all extremities, absence of musculoskeletal deformities, absence of communicable diseases, and suitable emotional fitness to provide for the care and lifting of the ill or injured. This information shall be provided on a form approved by the Board and shall be consistent with the provisions of the Americans with Disabilities Act.
6. Successfully complete Board approved Tennessee training for the level at which licensure is being requested.
7. Qualify by examination to perform pre-hospital care.
 - (i) Each applicant shall successfully complete both a Board approved written and practical examination, for the level at which licensure is being requested.
 - (ii) Applicants who fail to pass the examination shall be eligible to reapply for examination.
 - (iii) Applicants must successfully complete all requirements for licensure within two (2) years of completion of training.
8. Submit a completed application for licensure form as provided by the Division with all necessary documents, attachments and appropriate fees.
9. An applicant shall disclose the circumstances surrounding any of the following:
 - (i) Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 - (ii) The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 - (iii) Loss or restriction of licensure or certification.
10. If an applicant does not complete all requirements for licensure within two (2) years of date of completion of initial training and/or application, the application shall be considered abandoned and the Division shall destroy it.
11. Remit the appropriate licensure and application fees in accordance with Rule 1200-12-01-.06; and

(Rule 1200-12-01-.04, continued)

12. Cause the result of a criminal background check to be submitted to the administrative office of the Division, directly from the vendor identified in the Division's licensure application materials. Criminal background check shall be valid for one (1) year from the date it is obtained for filing with the Division.
- (b) Initial Licensure for an EMT. To be eligible for licensure as an EMT, an applicant shall complete all licensure requirements listed in subparagraph (3)(a).
1. EMTs who have shown competency in basic knowledge and skills through completion of Board approved written and practical examination and wish to progress to AEMT training without obtaining an EMT license shall:
 - (i) Submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals attesting to the applicant's personal character.
 - (ii) Begin training no later than one hundred twenty (120) days after successful completion of EMT training.
 - (iii) AEMT training beginning more than one hundred and twenty (120) days after successful completion of a Board approved EMT training course or failure to successfully complete an AEMT training course shall require a current Tennessee EMT license prior to admission into an AEMT training program.
- (c) Initial Licensure for an AEMT. In addition to meeting all licensure requirements listed in subparagraph (3)(a), to be eligible for an AEMT license an applicant shall:
1. Submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals attesting to the applicant's personal character.
 2. Hold a current license as a Tennessee EMT; or
 3. Have begun AEMT training within one hundred and twenty (120) days of completion of a Board approved EMT training class.
- (d) Initial Licensure for a Paramedic. In addition to meeting all licensure requirements listed in subparagraph (3)(a), to be eligible for licensure an applicant for a Paramedic license shall:
1. Demonstrate knowledge and competence in the basic knowledge and skills of an AEMT and possess the complex knowledge and skills necessary to provide patient care and transportation;
 2. Submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals attesting to the applicant's personal character; and
 3. Hold a current Tennessee license as an AEMT.

(Rule 1200-12-01-.04, continued)

(e) Post Initial Licensure Requirements for all licensed EMS personnel.

1. Licensed emergency medical services personnel shall receive training and show competency under EMS service authorized medical direction to be permitted to perform Board approved extended skills and/or procedures.
2. The EMS service medical director shall monitor performance through a quality assurance program.

(4) Licensure Renewal for all Emergency Medical Services Personnel.

(a) To be eligible for licensure renewal all EMS personnel must complete the following requirements prior to the expiration date of the license cycle:

1. Submit the renewal application and appropriate renewal fee in accordance with Rule 1200-12-01-.06;
2. Prior to license expiration date, successfully complete a Board approved renewal examination or the continuing education requirements for the licensure renewal. A renewal applicant using continuing education requirements shall produce proof of continuing education requirements upon a request for inspection.

(i) Certificates verifying the licensee's completion of the continuing education program(s) shall consist of one or more of the following:

- (I) Continuing education program's sponsor, date, length in hours awarded, program title, licensee's name, and/or license number; or,
- (II) An original letter on official stationary from the continuing education program's sponsor indicating date, length in hours awarded, program title, licensee's name, and/or license number.

(ii) Retention of independent documentation of completion of continuing education renewal requirements shall be maintained by all emergency medical services personnel as follows:

- (I) Independent documentation of completion of continuing education renewal requirements must be retained for a period of four (4) years from the end of the renewal period in which the requirement was acquired; and,
- (II) This documentation must be maintained in a form available for production for inspection and verification, if requested by the Division during its verification process.

(iii) The due date for completion of the required continuing education is the expiration date of the EMS personnel license renewal.

3. Submit a current copy of Cardiopulmonary Resuscitation Healthcare Provider card or equivalent.

(Rule 1200-12-01-.04, continued)

4. EMT Licensure Renewal. In addition to meeting all licensure renewal requirements listed in subparts (4)(a)1 through 3, an applicant for an EMT licensure renewal shall complete EMT continuing education requirements as follows, to be eligible for licensure renewal:
 - (i) Maintain proof of successful completion of a Board approved license renewal examination; or
 - (ii) Complete twenty (20) Board approved continuing education contact hours (A minimum of five (5) must be in pediatric related topics); or
 - (iii) Complete a minimum of two (2) Division approved college credit hours in EMT-related studies.
 5. AEMT Licensure Renewal. In addition to meeting all licensure renewal requirements listed in subparts (4)(a)1 through 3 an applicant for an AEMT licensure renewal shall complete AEMT continuing education requirements as follows, to be eligible for licensure renewal:
 - (i) Maintain proof of successful completion of a Board approved license renewal examination; or
 - (ii) Complete twenty-five (25) Board approved continuing education contact hours (A minimum of eight (8) must be in pediatric-related topics); or
 - (iii) Complete a minimum of two (2) Division approved college credit hours in AEMT-related studies.
 6. Paramedic Licensure Renewal. In addition to meeting all licensure renewal requirements listed in subparts (4)(a)1 through 3, an applicant for a Paramedic licensure renewal shall complete Paramedic continuing education requirements as follows, to be eligible for licensure renewal:
 - (i) Maintain proof of successful completion of a Board approved license renewal examination; or
 - (ii) Complete thirty-two (32) Board approved continuing education contact hours (A minimum of eight (8) must be in pediatric-related topics); or
 - (iii) Complete a minimum of three (3) Division approved semester college credit hours in Paramedic-related studies.
 - (iv) Paramedic license renewal shall qualify for renewal of the EMT license.
- (b) Violation of proscribed acts of the EMT, AEMT, and Paramedic as listed in T.C.A. § 68-140-311 shall be cause for revocation, suspension, or denial of license renewal.
- (c) A licensee, permit or certificate holder may renew his or her license within sixty (60) days following the license expiration date upon payment of the renewal fee in addition to a late penalty established by the Board for each month or fraction of a month that payment for renewal is late; provided, that the late penalty shall not

(Rule 1200-12-01-.04, continued)

exceed twice the renewal fee. If a licensee fails to renew his or her license within sixty (60) days following the license expiration date, then the licensee shall reapply for reinstatement of licensure in accordance with the rules established by the Board.

(d) Licensure Reinstatement of a Lapsed License for All Emergency Medical Services Personnel.

1. Reinstatement of expired license within one (1) year of expiration for licensees showing "Good Cause." For the purpose of reinstatement renewal under the "Good Cause" provision of an emergency services personnel license which has expired, the following requirements shall be met by the applicant to be eligible for reinstatement:

(i) The Division must receive written notification and a request for reinstatement within one (1) year of expiration for "Good Cause" from the licensee. If no notification is initiated by the licensee, then "Good Cause" cannot be applied.

(I) "Good Cause" for delayed compliance with the regulations shall include:

I. Personal illness or hospitalization;

II. Extensive travel or relocation within the affected time period;

III. Conflicting professional or educational schedules (military);

IV. Immediate family illness or death; or

V. Extraordinary circumstances beyond the control of the licensee.

(II) The following reasons shall not constitute "Good Cause":

I. Failure to submit necessary forms or fees by the expiration date;

II. Willful defiance of rules.

(ii) The licensee must complete a continuing education or renewal examination within the prior license period and must pay the reinstatement fee as specified by Rule 1200-12-01-.06.

(iii) The Division must receive the completed renewal application and appropriate documentation and the reinstatement fee within one (1) year of the expiration date.

2. Reinstatement greater than sixty (60) days but less than one (1) year of expiration of the license for licensees not qualifying under the "Good Cause" provision. For the purpose of reinstatement of an emergency services personnel license which has expired, the following requirements shall be met by the licensee to be eligible for reinstatement:

(Rule 1200-12-01-.04, continued)

- (i) The licensee must successfully complete an EMS Board approved license renewal written examination for appropriate level of desired licensure;
 - (ii) The licensee must pay all applicable fees as specified by Rule 1200-12-01-.06; and,
 - (iii) The Division must receive the completed reinstatement application and appropriate documentation and the reinstatement fee as specified by rule within one (1) year after expiration of the license.
3. Reinstatement greater than one (1) year but less than two (2) years after expiration of the license. For the purpose of renewal of an emergency services personnel license which has expired, the following requirements shall be met by the licensee to be eligible for reinstatement:
 - (i) The licensee must successfully complete an EMS Board approved refresher course for the appropriate level of desired licensure;
 - (ii) The licensee must successfully complete an EMS Board license renewal written and practical examination for the appropriate level of desired licensure;
 - (iii) The licensee must pay all applicable fees as specified by Rule 1200-12-01-.06; and,
 - (iv) The Division must receive the completed reinstatement application and appropriate documentation and the reinstatement fee as specified by rule within two (2) years after expiration of the license.
 - (v) The licensee shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check. Criminal background check shall be valid for one (1) year from the date it is obtained for filing with the Division.
4. Reinstatement greater than two (2) years after expiration of the license. When the license of an EMT or AEMT has lapsed for two (2) years or more, a licensee must complete the Board approved training course for appropriate level of licensure in its entirety and comply with initial license requirements in effect under subparagraph (3)(a).
5. Reinstatement of a Paramedic license greater than two (2) years after expiration of the license. When the license of a Paramedic has lapsed for two (2) years or more, the licensee must complete the following requirements:
 - (i) Officially document completion of a state approved EMT-Paramedic / Paramedic Training Program after January 1, 1977;
 - (ii) Show evidence of previous Tennessee licensure as a Paramedic;

(Rule 1200-12-01-.04, continued)

- (iii) Successfully complete Board approved written and practical examinations;
 - (iv) Hold a current Advanced Cardiac Life Support (ACLS) provider or instructor certification from the American Heart Association;
 - (v) Hold a current Pre-hospital Trauma Life Support (PHTLS) or International Trauma Life Support (ITLS) certification as a provider or instructor;
 - (vi) Hold a current Pediatric Advanced Life Support (PALS) certification as a provider or instructor;
 - (vii) Complete a state approved Paramedic Refresher Training Program or complete forty-eight (48) hours of Advanced Life Support training that overviews the topical content of the state approved Paramedic Refresher Training Program;
 - (viii) Pay all applicable fees as specified by Rule 1200-12-01-.06;
 - (ix) Send the completed reinstatement application and appropriate documentation and the reinstatement fee as specified by rule to the Division;
 - (x) Submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals attesting to the applicant's personal character;
 - (xi) Cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check. The criminal background check shall be valid for one (1) year from the date it is obtained for filing with the Division.
 - (xii) Submit a current copy of Cardiopulmonary Resuscitation Healthcare Provider card or equivalent; and
 - (xiii) Present evidence to the Division of Emergency Medical Services of a medical examination certifying physical health sufficient to conduct activities associated with patient care, including, but not limited to, visual acuity, speech and hearing, use of all extremities, absence of musculoskeletal deformities, absence of communicable diseases, and suitable emotional fitness to provide for the care and lifting of the ill or injured. This information shall be provided on a form approved by the Board and shall be consistent with the provisions of the Americans with Disabilities Act.
- (5) Reciprocity Requirements for Emergency Medical Services Personnel for Certification or Licensure.
- (a) Currently Certified or Licensed EMR, EMT, AEMT or Paramedic. Any EMR, EMT, AEMT or Paramedic who meets the following requirements is eligible to apply for reciprocity for certification or licensure:

(Rule 1200-12-01-.04, continued)

1. Applicant holds current certification or licensure from another state, country, or was certified/licensed while employed by the federal government; or
2. Applicant was/is certified/licensed while employed by the federal government, but not certified or licensed currently by another state or country, holds current certification/licensure from the National Registry of Emergency Medical Technicians for the level at which reciprocity is being requested; or
3. Applicant has successfully completed a course or curriculum based on the National Emergency Medical Services Education Standards for EMR, EMT, or Advanced EMT or Paramedic, or an equivalent course or curriculum; or
4. Applicant submits appropriate documentation of training conducted by an authorized federally approved training agency, if applicant was trained while employed by the federal government; and
5. Applicant conforms to all license/certification requirements for Tennessee certification or license, for level at which reciprocity is being requested;
6. Applicant demonstrates successful completion of all Board approved written and practical examinations, for level at which reciprocity is being requested; and
7. Applicant submits the appropriate application forms and fees, if applicable, to the Division.
8. Applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check. Criminal background check shall be valid for one (1) year from the date it is obtained for filing with the Division.

(6) Name or Address Change Notification Requirements.

- (a) Certified or Licensed EMS personnel shall notify the Division in writing or online through the Division's website of a change of name or address within thirty (30) days of such change.
- (b) EMS Division notifications for any purpose, including but not limited to continuing education requirements, renewals or disciplinary actions, shall be posted to the address listed on file with the Division.
- (c) Return by the post office of any Division notifications, which are posted to the address listed on file with the Division for the licensee, shall be interpreted as a willful violation for failure to retain a current address on file by the licensee.

(7) Retirement of an EMS Certification or License and Title Privilege

- (a) Retirement of certification or license. A currently certified EMR or licensed EMT, AEMT or Paramedic may be eligible to retire his/her certificate or license upon submitting the following information to the Division:

(Rule 1200-12-01-.04, continued)

1. A properly completed retirement affidavit form to be furnished by the Division; and,
 2. A licensee or certificate holder with pending disciplinary action from this state or any other state shall not be eligible to retire the license or certificate until such time as the disciplinary action is concluded.
- (b) EMS Title Privilege. Any EMS licensee who has filed the required information for permanent retirement of his/her license and received confirmation that the license will be retired, as requested, shall be permitted to use the following appropriate title for the licensee's level of licensure:
1. For emergency medical responder, EMR Retired or EMRR;
 2. For emergency medical technicians, EMT Retired or EMTR;
 3. For advanced emergency medical technician, AEMT- Retired, or AEMT-R; or,
 4. For Paramedics, Paramedic – Retired or Paramedic - R.
- (8) Reactivation of a Retired EMS Certificate or License.
- (a) Reactivation request within two (2) or less years of retirement of certificate or license. A licensee whose certificate or license has been retired for two years or less may be eligible to reactivate his/her certificate or license by completing the requirements for reinstatement for the appropriate level of licensure.
 - (b) Reactivation request after two (2) or more years of retirement of certificate or license. If a licensee's certificate or license has been retired for more than two years, an applicant must complete the requirements for reinstatement of an expired license greater than two (2) years.
- (9) Downgrade of a Current AEMT or Paramedic EMS License
- (a) A currently licensed AEMT or Paramedic may be eligible to downgrade his/her license by submitting the following to the Division:
 1. A properly completed downgrade affidavit form to be furnished by the Division; and
 2. All necessary documentation, if applicable.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-140-304, 68-140-308, 68-140-317, 68-140-504, 68-140-506, 68-140-508, 68-140-509, 68-140-511, 68-140-517, 68-140-518, 68-140-520, 68-140-525, and 42 USC §247d-6d. **Administrative History:** Original rule filed March 20, 1974; effective April 19, 1974. Amendment filed February 4, 1976; effective March 5, 1976. Repeal and new rule filed February 8, 1983; effective May 16, 1983. Amendment filed November 30, 1984, effective February 12, 1985. Amendment filed August 22, 1985; effective September 21, 1985. Amendment filed February 21, 1986; effective May 13, 1986. Amendment filed September 18, 1986; effective December 29, 1986. Amendment filed April 8, 1987; effective May 23, 1987. Amendment filed June 30, 1987; effective August 14, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 17, 1989; effective March 3, 1989. Amendment filed September 24, 1990; effective November 8, 1990. Amendment filed October 21, 1993; effective January 4, 1994. Amendment filed April 13, 1994; effective June 27, 1994. Amendment filed August 5, 1996; effective October 19, 1995. Amendment filed August 29, 2003; effective November 12, 2003. Amendment filed December 16, 2005; effective March 1, 2006. Amendments filed

(Rule 1200-12-01-.04, continued)

April 13, 2006; effective June 27, 2006. Amendment filed September 21, 2007; effective December 5, 2007. Emergency rule filed October 27, 2009; effective through April 25, 2010. Emergency rule filed October 27, 2009, expired; On April 26, 2010, the rule reverted to its previous status.

1200-12-01-.05 AIR AMBULANCE STANDARDS. All air ambulance service providers and crew members operating in Tennessee must comply with Chapter 140 of Title 68 of the Tennessee Code Annotated and this Rule. Failure to comply shall subject the service provider and/or its personnel to disciplinary action pursuant to T.C.A. 68-140-511.

- (1) Definitions - As used in this Rule, the following terms shall have the following meanings:
 - (a) "Air Medical Communications Specialist" means any person employed by an air ambulance service coordinating acknowledgement of medical requests, medical destination, and medical communications during an air medical response and patient transfer.
 - (b) "Medical Crew Member" means any person employed by an air ambulance service for the purpose of providing care to patients transported by and receiving medical care from an air ambulance service.
 - (c) "Special Medical Equipment" means any device which shall be approved by the air ambulance service medical director for the medical care of an individual patient on an air ambulance.
 - (d) "Specialty Crew Member" means any person the air ambulance service medical director assigns for a regular medical crew member for a specialty mission.
 - (e) "Specialty Mission" means an air ambulance service assignment necessitating the medical director to substitute special medical care providers and/or equipment to meet the specified needs of an individual patient.
 - (f) "Utilization Review" means the critical evaluation of health care processes and services delivered to patients to ensure appropriate medical outcome, safety and cost effectiveness.
- (2) Medical Equipment and Supplies. The medical director for the emergency medical service shall ensure that the following medical equipment and supplies are provided on each fixed-wing or helicopter flight mission:
 - (a) Litter or stretcher with at least three sets of restraining straps;
 - (b) An installed and a portable suction apparatus, each of which has the capacity to deliver adequate suction, including sterile suction catheters and a rigid suction tip for both adult and pediatric patients;
 - (c) Bag/valve/mask resuscitator(s) with clear masks and an oxygen reservoir with connections capable of achieving 95% fraction inspired oxygen to provide resuscitation for both adult and pediatric patients;
 - (d) Airway devices for adult and pediatric patients including the following:
 1. Oropharyngeal airways;
 2. Endotracheal tubes;
 3. Laryngoscope with assorted blades and accessory items for intubation; and,

(Rule 1200-12-01-.12, continued)

- 3. Pre-Hospital Experience: Minimum of one year practicing in the pre-hospital environment in Tennessee.
 - 4. Letter of recommendation from sponsoring EMS agency.
- (b) Authorization renewal shall be contingent upon:
- 1. Maintaining current Tennessee licensure as an Emergency Medical Technician-Basic or Paramedic without disciplinary action.
 - 2. Maintaining current CPR instructor endorsement.
 - 3. A letter of recommendation for reauthorization from the sponsoring EMS Agency.
 - 4. A letter of recommendation for reauthorization from the Regional EMS Consultant.
 - 5. Completion of an EMS Board approved Instructor Course.
 - 6. Attendance at an annual First Responder Instructor Update as mandated by the Division of Emergency Medical Services.
- (7) Individuals with a Program Director and/or Instructor Coordinator endorsement are authorized to coordinate and instruct in classes at or below their level of authorization, but not above their level of authorization.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-39-504, 68-39-505, 68-39-504, 68-39-508, 68-140-504, 68-140-505, 68-140-508, 68-140-509, and 68-140-518. **Administrative History:** Original rule filed November 30, 1984; effective February 12, 1985. Amendment filed April 8, 1987; effective May 23, 1987. Repeal and new rule filed January 4, 2005; effective March 20, 2005. Amendment filed September 21, 2007; effective December 5, 2007. Amendment filed April 6, 2010; effective July 5, 2010.

~~1200-12-01-.13 EMT AND EMT PARAMEDIC TRAINING PROGRAMS.~~

- ~~(1) Definitions. Within this Rule, the following terms shall apply:~~
- ~~(a) Accreditation: Means the process of training program approval used to assure compliance with the requirements of the Tennessee Emergency Medical Services Board and the policies of Division of Emergency Medical Services.~~
 - ~~(b) Accredited Program: Means a training program approved by the Tennessee Emergency Medical Services Board.~~
 - ~~(c) Contract or Agreement: Means a written agreement between the school and the cooperating agency.~~
- ~~(2) Basic Emergency Medical Technician Training Programs. All programs offered by institutions or entities desiring to qualify applicants for EMT certification shall conform to standards approved by the Tennessee Emergency Medical Services Board, and such rules as shall be promulgated by the department.~~
- ~~(a) Purpose of Accreditation~~
 - ~~1. To ensure the safe practice of the Emergency Medical Technician (EMT) by setting standards for programs preparing the practitioner.~~

(Rule 1200-12-01-.13, continued)

- ~~2. To ensure graduates of accredited schools eligibility for admission to the certification examinations.~~

~~(b) Accreditation shall be considered in accordance with the following criteria:~~

- ~~1. Initial accreditation is granted a new program that has not been in operation long enough to complete its first class but demonstrates its eligibility for full accreditation. The program shall be reviewed after one year or when the first students complete the program.~~
- ~~2. Full accreditation is granted a program that has met the requirements that are set forth by the Board and the policies of the Division of EMS. The accreditation will be for a period of two years.~~
- ~~3. Conditional accreditation may be accorded a program which has failed to maintain minimum standards and has been notified that it must meet the requirements within a specified time period.~~
- ~~4. Accreditation shall be denied for cause or may be revoked or conditioned for failure to comply with the standards established by the Board.~~
- ~~5. Renewal of Accreditation. Renewal shall be based on recommendations of the staff to the Board utilizing surveys and site visits, conferences, review of documentation, instructor student ratio, instructor qualifications, and related evidence of continuing compliance with the regulations of the Board and policies of the Division. If deficiencies are not corrected within the specified time, and until such action is approved by the board, the facility shall not convene a subsequent class.~~

~~(c) Philosophy, Purpose, Capabilities, and Organization~~

- ~~1. Philosophy and Purpose. The institution seeking initial and continuing accreditation of an EMT Training Program shall have written statements of the educational philosophy and purpose of the program.~~
- ~~2. Capabilities:
 - ~~(i) The institution sponsoring an EMT training program shall be an accredited post-secondary educational institution or other entity which meets comparable standards for education in this field.~~
 - ~~(ii) The institution shall maintain liaison with a hospital which is capable of supporting EMT clinical training.~~
 - ~~(iii) The institution shall ensure the financial support, equipment, facilities, and leadership which will provide for a sound educational program.~~
 - ~~(iv) The institution shall ensure student competency in knowledge and experience and shall endorse participants for eligibility to complete the certification examinations.~~~~
- ~~3. Organization
 - ~~(i) The institution shall demonstrate effective organization and shall be administered in ways conducive to the management of the program.~~~~

(Rule 1200-12-01-.13, continued)

- ~~(ii) An authorized Instructor/Coordinator (I/C) shall supervise the overall organization and administration of the program.~~
- ~~(iii) An accurate, comprehensive record system shall be maintained for all phases of the program and shall be available for inspection during survey visits.~~
- ~~(iv) When the institution coordinates courses or facilities with other institutions or agencies, a written agreement of mutual policies covering all major aspects of the cooperative relationships shall be negotiated by administrative authorities of each institution.~~
- ~~(v) Reserved.~~
- ~~(vi) Reserved.~~
- ~~(d) Faculty. The faculty may include qualified physicians, registered nurses, EMTs, Paramedics, or other licensed practitioners to assist in the instruction of the course.~~

 - ~~1. Reserved.~~
 - ~~2. Reserved.~~
- ~~(e) Medical Advisor/Director~~

 - ~~1. Each program shall have a licensed physician who serves as the medical advisor.~~
 - ~~2. Reserved.~~
 - ~~3. Reserved.~~
- ~~(f) An authorized Instructor/Coordinator (I/C) shall provide overall direction and coordination of the planning, organization, administration, periodic review, continued development, funding and effectiveness of the program. Among the functions to be maintained are the processing of student applications; the selection of students; the scheduling of classes and assignment of faculty; the coordination of examination and evaluation of students; the preparation of assessment materials; the development and availability of required equipment and materials for each class; the maintaining of an adequate inventory of training equipment, including audiovisual resources, the provision for counseling services to students on an individual and a group basis; the establishment of liaison between students, program staff, the sponsoring institution and its affiliates; information about the program to interested individuals and organizations; the preparation of the program budget, and, as appropriate, assistance in class instruction.~~
- ~~(g) Students Admission and Conduct~~

 - ~~1. Selection and Admission. Selection and admission practices for entrance into an EMT training program shall be based on the following criteria:~~

 - ~~(i) Meet the admission requirements of the educational institution.~~
 - ~~(ii) Possess a high school diploma or general education equivalent.~~

(Rule 1200-12-01-.13, continued)

- (iii) ~~Show that he is in good physical and mental health and that he possesses no physical handicaps or disabilities which would impede his ability to fulfill the functions and responsibilities of an EMT.~~

~~A physical examination form must be completed by a physician who has examined the individual within the past six months and who possesses adequate knowledge of EMT's responsibilities such as lifting, dexterity, observations, verbal communications, and hearing, with a favorable report of physical health sufficient to perform as an EMT.~~

~~If there are any limitations in the individual ability to perform adequately, he must submit additional documentation from the appropriate professional evaluator which could clearly indicate his abilities to perform adequately. (i.e.)~~

~~(I) Speech impairment-Speech-Pathologist~~

~~(II) Hearing impairment-Audiologist~~

~~(III) Physical Handicap or Disability-Orthopedist or Registered Physical Therapist~~

~~(IV) Vision-Ophthalmologist~~

~~2. Student Identification-Reserved.~~

~~3. Transfer and Readmission of Students. A student may be readmitted and accepted through transfer to a program if such readmission and/or transfer admission is within the established entrance policies and standards of the institution and the Department and that provisions are made for each such student to meet the requirements for course completion and qualify for the state certification examination.~~

~~4. Dismissal. Students shall be subject to dismissal for cause.~~

~~5. Reserved.~~

~~(h) Educational Facilities~~

~~1. Classrooms, Laboratories, Offices. Each institution shall provide adequate teaching facilities and laboratories in the school and the clinical areas sufficient for instruction. Separate office space for faculty should be provided.~~

~~2. Clinical Facilities. The clinical facilities shall be selected on the basis of adequacy for student learning-experiencing and proximity to the training program.~~

~~(i) Curriculum Organization and Review~~

~~1. Curriculum organization. The EMT curriculum shall conform to the National Standard Curriculum, Emergency Medical Technician: Basic, as published August, 1994, or the successor publication applicable on the date of course enrollment. The curriculum shall include such modifications as are approved by the board within the scope of practice recognized in Rule 1200-12-01-.04. Copies of the applicable version of the curriculum are available at cost upon request from the Division office.~~

(Rule 1200-12-01-.13, continued)

2. ~~The program shall consist of three components: didactic, practical instruction, and clinical experience.~~
 3. ~~Textbooks shall be approved by the Board.~~
 4. ~~Major Curriculum Change. Any major curriculum change must be presented in writing subject to department and Board approval.~~
- (j) ~~Curriculum Review. A copy of the complete curriculum, statements of course objectives, copies of course outlines, class schedules, schedules of supervised clinical experience, and teaching plans shall be on file and available for review and inspection by an authorized representative of the Department with other information as follows:~~
1. ~~Evidence of student competency in achieving the performance for educational objectives of the program shall be kept on file.~~
 2. ~~Procedures for evaluation of teaching effectiveness and instruction shall be established by the program.~~
- (k) ~~Only students from Tennessee accredited programs or having completed an equivalent curriculum in other states shall be eligible for state certification.~~
- (3) ~~Extended Skills Training Programs for Emergency Medical Technicians. All programs offered by an entity desiring to qualify applicants in extended skills approved under rule 1200-12-01-.04(3) shall conform to standards approved by the Board as follows:~~
- (a) ~~An entity seeking to provide extended skills programs shall file a written request with the Division of EMS at least 30 days prior to the scheduling of training.~~
 1. ~~Each entity shall assure sufficient supervised practice, equipment, and experience for the clinical skill.~~
 2. ~~Each entity shall have a medical director who is a licensed physician, and whose affiliation is confirmed in writing.~~
 3. ~~Clinical affiliations shall be established and confirmed in writing.~~
 - (b) ~~Instructors may be physicians, registered nurses, EMT-paramedics or other licensed practitioners confirmed by the Division's authorized representative.~~
 - (c) ~~Educational facilities shall meet the standards set forth under paragraph (2);~~
 - (d) ~~Clinical facilities shall be selected on the basis of adequacy for student learning training program.~~
 - (e) ~~Each program shall follow the curriculum approved by the Board for the skill area, as published by the Division of Emergency Medical Services, including but not necessarily limited to, the following areas:~~
 1. ~~Administration of epinephrine for anaphylaxis, bronchodilators for respiratory distress, aspirin for chest pain and nitroglycerine lingual or sublingual for suspected cardiac conditions subject to medical control.~~
 2. ~~Use of approved airway procedures.~~
 3. ~~Venipuncture and the administration of intravenous fluids without admixtures.;~~

(Rule 1200-12-01-.13, continued)

4. ~~Performing defibrillation or transcutaneous external pacing in a pulseless, nonbreathing patient using an automated mode device.~~
- (f) ~~Each course shall prepare students for examination which shall fulfill criteria as established under rule 1200-12-01-.04(1)(f).~~
- (4) ~~Emergency Medical Technician-Paramedic Training Programs.~~
- (a) ~~All programs offered by facilities, institutions, agencies, or agencies, desiring to qualify applicants for EMT-P certification shall conform to the standards published by the U.S. Department of Transportation, the standards approved by the Tennessee Emergency Medical Services Board, and such rules as shall be promulgated by the Department.~~
1. ~~Purpose of Accreditation~~
 - (i) ~~To insure the safe practice of Emergency Medical Technician-Paramedic (EMT-P) by setting standards for program preparing the practitioner.~~
 - (ii) ~~To insure graduates of accredited schools eligibility for admission to the certification examinations.~~
 2. ~~Accreditation shall be categorized, and awarded or revoked in accordance with the following criteria:~~
 - (i) ~~Initial accreditation is granted a new program that has not been in operation long enough to graduate its first class but demonstrates its eligibility for full accreditation. The program shall be reviewed for consideration for full accreditation after one year or when the first students graduate.~~
 - (ii) ~~Full accreditation will be granted for a two (2) year period a program that has met the requirements that are set forth by the Board and the policies of the Division of EMS.~~
 - (iii) ~~Conditional accreditation may be accorded a program which has failed to maintain the standards and has been notified that it must meet the requirements within a specified time period, or upon demonstration of compliance.~~
 - (iv) ~~Accreditation shall be denied for cause or may be revoked or conditioned for failure to comply with standards established by the Board.~~
 - (v) ~~Renewal of Accreditation – Renewal shall be based on recommendations of the staff to the Board based upon survey and site visits, conferences, review of clinical experiences and documentation, instructor student ratio, instructor qualifications, and related evidence of continuing compliance with the Regulations of the Board. If deficiencies are not corrected within the specified time, and until such action is approved by the Board, the facility shall not convene a subsequent class.~~
 - (vi) ~~Renewal by Committee on Allied Health Education and Accreditation (CAHEA) – Full or Conditional renewal shall be granted to all programs fulfilling requirements of the Joint Review Committee on Educational Programs for the EMT-Paramedic, which equal or exceed Tennessee standards.~~

(Rule 1200-12-01-.13, continued)

~~(vii) Programs desiring to cease training activities shall notify the Director of EMS in writing.~~

~~(b) Requirements for Accreditation.~~

~~1. Sponsorship~~

~~(i) The institution sponsoring an EMT-Paramedic training program shall be an accredited post-secondary educational institution, such as a university, senior college, community college, technical school, or an appropriately accredited medical institution with adequate resources and dedication to educational endeavors.~~

~~(ii) An accredited program shall be affiliated with a licensed medical facility or hospital which is capable of supporting EMT-Paramedic education and training with sufficient supervised practice and experience.~~

~~(iii) The educational institution must provide the financial support, facilities, and leadership which will provide for a sound educational program, and appropriate services to faculty and students.~~

~~(iv) The educational institution shall maintain an overall student competency in knowledge and experience and endorse participants for eligibility to complete the certification examinations.~~

~~2. Curriculum~~

~~(i) Program Goals and Objectives~~

~~(I) There shall be a written statement of program goals and program objectives consistent with and responsive to the demonstrated needs and expectations of the various communities it serves.~~

~~(II) Statements of goals and objectives shall provide the basis for program planning, implementation, and evaluation.~~

~~(III) An advisory commission shall be designated and charged with assisting program and sponsoring institutional personnel in formulating appropriate goals and standards, monitoring needs and expectations, and ensuring program responsiveness to change.~~

~~(ii) Minimum Expectations~~

~~(I) The goals and objectives must include, but need not be limited to providing assurance that graduates demonstrate entry-level competencies, as periodically defined by nationally accepted standards of practitioner roles and functions.~~

~~(II) The curriculum shall follow planned outlines and appropriately integrate lecture, laboratory, clinical, and field experience sequenced to assure efficient learning and opportunity for every student. Content and support courses shall include basic theoretical and scientific knowledge reflective of state of the art patient care.~~

(Rule 1200-12-01-.13, continued)

~~(III) The curriculum shall meet or exceed the educational objectives and competencies as adopted in the United States Department of Transportation, EMT-Paramedic National Standard Curriculum.~~

~~3. Resources~~

~~(i) Administration~~

~~(I) Program Director~~

~~I. The program shall have a full time program director, whose primary responsibility and full time commitment is to the educational program at all times when a program is functioning.~~

~~II. The program director shall have appropriate training and experience to fulfill the role as program director.~~

~~III. The program director shall be responsible for the organization, administration, periodic review, development and effectiveness of the educational program.~~

~~(II) Medical Director~~

~~I. The program shall have in appointed medical director who is a licensed physician with experience and current knowledge of emergency care of acutely, ill and traumatized patients. This individual must be familiar with base station operation including communication with, and direction of, pre-hospital emergency units. The medical director must be knowledgeable of the administrative problems effecting education for EMT-Paramedic programs and be knowledgeable of tile legislative issues regarding educational programs for the pre-hospital provider.~~

~~II. The medical director must review and approve the educational content of the program curriculum. The medical director must review and approve the content and quality of tile medical instruction and supervision delivered by the facility. The medical director shall assure that each student is appropriately assessed to assure that they are making adequate progress toward the completion for the educational program. The medical director will attest that each student has achieved the desired level of competence prior to graduation.~~

~~(III) Instructional Faculty~~

~~I. The faculty shall be qualified through academic preparation, training, and experience to teach tile courses or topics to which they are assigned in the curriculum.~~

~~II. Individual proficiency and qualifications for faculty members shall be demonstrated in a personal curriculum Vitae, oil file with the Program Director.~~

(Rule 1200-12-01-.13, continued)

~~III. The number of faculty instructors shall be sufficient to provide instruction and supervision for each period of the program or field experience.~~

~~(IV) Finances~~

~~I. Financial resources adequate for the continued operation of the educational program shall be provided for each class of students enrolled.~~

~~II. There shall be a distinct budget with an accounting of financial resources required and income generated by the program.~~

~~(V) Facilities~~

~~I. Instructional resources~~

~~A. Classrooms, laboratories and administrative offices shall be provided with sufficient space to accommodate the number of students matriculating in the program and the supporting faculty.~~

~~B. Library resources, related to the curriculum, shall be readily accessible to students and shall include current EMS and medical periodicals, scientific books, audiovisual and self-instructional resources, and other references.~~

~~C. Sufficient supplies and equipment to be used in the provision of instruction shall be available and consistent with the needs of the curriculum and adequate for the students enrolled.~~

~~(VI) Clinical Resources~~

~~I. Clinical affiliations shall be established and confirmed in written affiliation agreements with institutions and agencies that provide clinical experience under appropriate medical direction and clinical supervision.~~

~~II. Students shall have access to patients who present common problems encountered in the delivery of advanced emergency care in adequate numbers and in distribution by sex and age.~~

~~III. Students shall be assigned in clinical settings where experiences are educationally efficient and effective in achieving the program's objectives. These areas shall include, but not be limited to, the operating room, recovery room, delivery room, pediatrics, and emergency department.~~

~~IV. Supervision in the clinical setting shall be provided by program instructors or hospital personnel, such as nurses or physicians, if they have been approved by the program to function in such roles. The ratio of students to instructors in the clinical facilities shall be adequate to assure effective learning.~~

(Rule 1200-12-01-.13, continued)

~~(VII) Field Internship~~

- ~~I. The field internship of the program shall occur within an emergency medical system which demonstrates medical accountability. The student must be under direct supervision of preceptors who are designated by the program and who are physicians, nurses, or paramedics. The program will assure that there is appropriate, objective evaluation of student progress in acquiring the desired competencies developed through this experience. The experience shall occur on an intensive care vehicle within an EMS system that has the capability of voice telecommunications with on-line medical direction and is equipped with equipment and drugs necessary for advanced life support.~~
- ~~II. The majority of the field internship experience shall occur following the completion of the didactic and clinical phases of the program. It must be structured to assure that by the completion of this portion of the program, each student will achieve the desired competencies of the curriculum. Adequate manpower must be available within the EMS system to assure that the assigned student is never a substitute for paid personnel or a required team member.~~

~~4. Program Records~~~~(i) Student Records~~

- ~~(I) There shall be a transcript of high school graduation or graduate equivalent (GED) in each student's file.~~
- ~~(II) There shall be medical evidence that the protection of students and the public from injury or the transmission of communicable diseases is assured for each student.~~
- ~~(III) There shall be a record of class and practice participation and evidence of competencies attained throughout the education and training program for each student.~~
- ~~(IV) There shall be copies of examinations and assessments of the student development and attainment of competencies on file.~~
- ~~(V) There shall be sufficient information to document each student's satisfactory completion of all didactic, clinical, and field requirements.~~
- ~~(VI) The records maintained by the institution shall be complete whether or not a student is successful in completing the prescribed course of instruction.~~

~~(ii) Academic Records~~

- ~~(I) There shall be a descriptive synopsis of the current curriculum on file.~~
- ~~(II) There shall be a statement of course objectives, copies of course outlines, class and laboratory schedules, clinical and field internship experience schedules, and teaching plans on file.~~

(Rule 1200-12-01-.13, continued)

~~5. Students~~

- ~~(i) Disclosure — Accurate information regarding program requirements, tuition and fees, prerequisites, institutional and programmatic policies, procedures, and supportive services shall be available to all prospective students and provided to all enrolled students.~~
- ~~(ii) Counseling~~
- ~~Academic Counseling services shall be accessible to all students for student academic counseling and learning assistance.~~
- ~~(iii) Placement — Guidance and placement services shall be available to all new graduates of the program.~~
- ~~(iv) Identification — Students shall be clearly identified by name plate, uniform, or other apparent means to distinguish them from graduate emergency medical services personnel, other health professionals, workers, and students.~~
- ~~(v) Admission/Readmission/Transfer~~
- ~~(I) Admission, readmission, or transfer of students shall be made in accordance with clearly defined and published practices of the institution which shall be non-discriminatory with respect to race, color, creed, sex, age, handicaps, or national origin. Specific academic, health related and/or technical requirements for admission shall also be clearly defined and published.~~
- ~~(II) The individual must be currently certified as Emergency Medical Technician in the State of Tennessee or be state eligible.~~
- ~~(III) The individual must show that he is in good physical and mental health and is able to fulfill the functions and responsibilities of a Paramedic.~~
- ~~(IV) If there are any limitations in the individual's ability to perform adequately, he must submit additional documentation from the appropriate professional evaluator which could clearly indicate his abilities to perform adequately. (i.e.)~~
- ~~I. — Speech impairment Speech Pathologist~~
- ~~II. — Hearing impairment Audiologist~~
- ~~III. — Physical Handicap or Disability — Orthopedist or Registered Physical Therapist.~~
- ~~IV. — Vision — Ophthalmologist~~
- ~~(V) The individual must take the Academic Assessment Placement Program (AAPP) Examination or an examination acceptable to the Board to determine academic eligibility into the program unless he meets the requirements through ACT scores or accumulated college credits.~~

(Rule 1200-12-01-.13, continued)

~~(VI) The individual must be evaluated using the scale approved by the Division. Each requirement will receive a score of 1-5 depending on the quality of achievement with 5 being the highest and 1 being the lowest. Applicants selected shall receive an overall rating of 2.5 and above. The following areas of assessment are to be tabulated:~~

~~I. EMT Knowledge: The applicant shall take the Basic EMT Certification Examination and shall be ranked based on his score:~~

- ~~1 = 80-82%~~
- ~~2 = 83-86%~~
- ~~3 = 87-91%~~
- ~~4 = 92-96%~~
- ~~5 = 97-100%~~

~~II. Psychological Profile: The applicant shall take the required psychological examinations which must include at least the Minnesota Multiple Personality Index (MMPI). The individual is given an overall score of 1-5 based on these examinations.~~

~~III. Interview: The applicant shall be interviewed by a committee of at least four (4) individuals, and a representative from the Division of Emergency Medical Services. These members shall be selected from an educator, a registered nurse, a physician, a Paramedic, a psychologist, and an ambulance service director.~~

~~The applicant will be evaluated on his EMS related experience, level of maturity and motivation, level of knowledge, communication ability, and poise.~~

~~(VII) Insurance - The applicants accepted must subscribe to a malpractice program with minimal coverage of \$1,000,000 which will extend for the entire length of the training program.~~

~~6. Evaluation~~

~~(i) Student Evaluation~~

~~(I) Purpose and Frequency - Evaluation of students shall be conducted on a recurrent basis and with sufficient frequency to provide both the student and program faculty with valid and timely indicators of the student's progress toward and achievement of the competencies and objectives stated in the curriculum.~~

~~(II) Methods - The methods used to evaluate students shall verify the achievement of the objectives stated in the curriculum. Evaluation methods, including direct assessment of student competencies in patient care environments, shall be appropriate in design to assure valid assessments of competency. Evaluation methods must be consistent with the competencies and objectives being tested. Methods of assessment shall be carefully designed and constructed to appropriately measure stated objectives. Methods used to evaluate clinical and field skills and behaviors shall be consistent with~~

(Rule 1200-12-01-.13, continued)

~~stated performance expectations and designed to assess competency attainment.~~

~~(ii) Program Evaluation~~

- ~~(I) Purpose and Frequency—The program shall periodically assess its effectiveness in achieving its stated goals and objectives. The results of this evaluation must be reflected in the review and timely revision of the program.~~
- ~~(II) Methods—Program evaluation methods shall emphasize gathering and analyzing data on the effectiveness of the program in developing competencies consistent with the stated program goals and objectives.~~
- ~~(III) Changes—Any major curriculum or program changes must be presented to the department in writing and will be subject to department and Board approval.~~

~~7. Administering Accreditation~~

- ~~(i) Program Responsibilities—The accreditation process is initiated with the written request of an official representative of the institution.~~
- ~~(I) A comprehensive report of the program shall be included with this request. This report shall substantiate compliance with the accreditation standards.~~
- ~~(II) An agreement to a site visit by the review team within 90 days shall be included in the request.~~
- ~~(ii) Division Responsibilities—Staff will determine the readiness of the program to determine if the process should be initiated.~~
- ~~(I) After review of the written report, the staff will determine whether and when a site visit shall be made.~~
- ~~I. The program will be notified and given the opportunity to correct any deficiencies.~~
- ~~II. The division will schedule the site visit date and the appointments.~~
- ~~(II) Following the site visit, a written report will be issued to the institution citing deficiencies, if any, and the status of accreditation.~~

Rule 1200-12-01-.13 EMT, AEMT and Paramedic Education Programs

(1) Definitions. Terms used in this rule shall be defined as follows:

- (a) "Approval" means the approval process the Tennessee Emergency Medical Services Board ("Board") uses to assure that EMT, AEMT, and Paramedic education programs comply with the educational standards, requirements, and policies it adopts.

(Rule 1200-12-01-.13, continued)

- (b) "Approved Program" means an education program approved by the Tennessee Emergency Medical Services Board.
- (c) "Contract or Agreement" means a written agreement between the school and the cooperating agency.
- (d) "EMS Educational Institution" means an institution sponsoring an EMT, AEMT, or Paramedic education program shall be an accredited post-secondary educational institution, such as a university, college, community college, technical school, or fire department in accordance with T.C.A. § 68-140-327, or a state agency conducting classes for state law enforcement employees at a state law enforcement training academy, with adequate resources and dedication to educational endeavors.
- (e) "Medical Director" means a physician with an unencumbered Tennessee license having experience and current knowledge of emergency care of acutely ill and/or traumatized patients. This individual shall be familiar with base station operation including communication with, and direction of, pre-hospital emergency units. The medical director must have knowledge of administrative problems affecting EMS personnel education programs and legislative issues regarding educational programs for the pre-hospital provider.
- (f) "National Accreditation" means accreditation from the Commission on Accreditation of Allied Health Education Programs ("CAAHEP").
- (g) "National Education Standards" shall mean national education standards developed from the National EMS Scope of Practice Model for Emergency Medical Service Personnel as promulgated by the U.S. Department of Transportation, National Highway Traffic Safety Administration.

(2) EMS Educational Programs:

- (a) Any EMS Educational Institution sponsoring an EMT, AEMT, or Paramedic education program to qualify applicants for licensure shall ensure that its program conforms, at a minimum, to the national education standards developed from the National EMS Scope of Practice Model for Emergency Medical Service Personnel promulgated by the U.S. Department of Transportation, National Highway Traffic Safety Administration, which the EMS Board has approved, and to such rules as the Board shall promulgate.
- (b) Any EMS Educational Institution sponsoring an EMT, AEMT, or Paramedic education program shall adopt, at a minimum, all parts of the curricula as developed from the national education standards including skills, training requirements, and permitted practices and procedures for appropriate licensure classification which the EMS Board has adopted.
- (c) The EMS Educational Institutions sponsoring EMS training programs shall:
 1. File a written request for Division approval with the EMS Division at least thirty (30) days prior to the start date of classes;
 2. Ensure that the training program has sufficient supervised practice, equipment, and experience for each required clinical skill;
 3. Have a medical director whose affiliation is confirmed in writing;

(Rule 1200-12-01-.13, continued)

4. File a description of curriculum with the EMS Division; and
 5. Meet the instructor/student ratio approved by the Board.
- (d) Only students from Tennessee approved programs or those who have met reciprocity requirements shall be eligible for state licensure.
- (e) Purposes of Approval are as follows:
1. To set standards for education programs to prepare emergency medical services licensees to practice safely; and
 2. To ensure that graduates of an approved EMS Educational Institution are eligible for admission to the licensure examinations.
- (f) Approval shall be categorized, and awarded or revoked in accordance with the following criteria:
1. The Board may grant initial approval to a new program that has not been in operation long enough to graduate its first class, but demonstrates its eligibility for full approval. The Board shall review programs for full approval one year after initial approval or when their first class of students graduates.
 2. Approval and renewal of approval shall be based on recommendations of the Division made to the Board based upon application information, survey and site visits, review of clinical experiences and documentation, instructor/ student ratio, instructor qualifications, and related evidence of continuing compliance with the regulations of the Board.
 3. The Board may grant approval for a period of five (5) years to a program that has met the requirements that are set forth by the Board and the policies of the Division of EMS.
 4. The Board may grant conditional approval to a program which has failed to maintain the standards and has been notified that it must meet the requirements within a specified time period or upon demonstration of compliance.
 5. The Board shall deny approval for cause, or it may revoke or condition approval for failure to comply with the standards the Board establishes.
 6. If the institution does not correct deficiencies within the specified time, and until the Board approves such action, the education program shall not convene a subsequent class.
 7. Programs desiring to cease education activities shall notify the Director of EMS in writing.
- (g) All programs must maintain for first attempt for licensure, an annual pass rate as approved by the Board. Should a program fail to maintain the required pass rate it shall:
1. Receive a "Letter of Concern" from the Division.

(Rule 1200-12-01-.13, continued)

2. Should a program fail to achieve the required pass rate for a second year, the program shall receive a "Letter of Warning" from the Division and be required to submit a "Plan of Correction" to the Division outlining its recommendations for improvement.
3. Should a program fail to achieve the required pass rate for a third year, a representative from the approved program shall be required to appear before the Board to explain the "Plan of Correction" and the steps taken to improve.
4. The Board may, in accordance with the Uniform Administrative Procedures Act (UAPA), condition, suspend, or revoke the educational institution's approval.

(h) Requirements for Approval.

1. Sponsorship/Affiliation

- (i) EMS Educational Institutions must have affiliation agreements with Tennessee licensed Emergency Medical Services, and with Tennessee licensed medical facilities or hospitals which are capable of supporting EMT, AEMT and/or Paramedic education with sufficient supervised practice and experience for the number of students enrolled in the program.
- (ii) The EMS educational institution must provide the financial support, facilities, and leadership capable of ensuring a sound educational program and appropriate services to faculty and students.
- (iii) The EMS educational institution shall maintain records of overall student competency in knowledge, skills and experience while maintaining the capability to endorse participants for the license examination.
- (iv) The EMS educational institution shall notify the Division of any proposed major curriculum or program change in writing which will be subject to Board approval.

2. Curriculum

(i) Program Goals and Objectives

- (I) The program shall have a written statement of program goals and objectives consistent with and responsive to the demonstrated needs and expectations of the various communities it serves.
- (II) Statements of goals and objectives shall provide the basis for program planning, implementation, and evaluation.
- (III) An advisory committee shall be designated and charged with assisting the program and sponsoring institutional personnel in formulating appropriate goals and

(Rule 1200-12-01-.13, continued)

standards, monitoring needs and expectations, and ensuring program responsiveness to change.

(ii) Minimum Expectations

- (I) Program goals and objectives must include, but need not be limited to, providing assurance that graduates demonstrate entry-level competencies, as periodically defined by nationally accepted educational standards and scope of practice for the appropriate level of licensure.
- (II) The curriculum shall follow planned outlines, that shall be kept on file for Division review, that appropriately integrate lecture, laboratory, clinical, and field experience sequenced to assure efficient learning and opportunity for every student. Content and support courses shall include basic theoretical and scientific knowledge reflective of state of the art patient care.
- (III) The curriculum shall meet, or exceed, the national educational standards and competencies for the appropriate level of licensure as adopted in the United States Department of Transportation National EMS Scope of Practice Model and Education Standards.

3. Administration and Faculty

(i) Administration of EMS Educational Programs

- (I) EMS Educational Institutions offering paramedic educational programs shall include the following:
 - I. A full time Division authorized EMS Program Director, whose primary responsibility and fulltime commitment is to the educational program.
 - II. The Program Director shall have appropriate training and experience to fulfill the role of program director as indicated in rule 1200-12-01-.12(1).
 - III. The Program Director shall be responsible for the organization, administration, periodic review, development and effectiveness of the paramedic educational program.
 - IV. The Program Director shall act as a liaison between faculty, the sponsoring service, students, the local medical community, and the Division of Emergency Medical Services.
 - V. The Program Director is responsible for recruitment and the continued development of faculty to meet the needs of the institution.

(Rule 1200-12-01-.13, continued)

- (II) EMS Educational Institutions offering AEMT education shall include the following:
- I. At a minimum, a Division authorized AEMT Instructor/ Coordinator, who is responsible for the organization, administration, periodic review, development and effectiveness of the AEMT educational program.
 - II. An EMS Program Director in EMS institutions authorized to provide Paramedic educational programs may also administer AEMT educational programs.
- (III) EMS Educational Institutions offering EMT education shall include the following:
- I. At a minimum, a Division authorized EMT Instructor/ Coordinator, who is responsible for the organization, administration, periodic review, development and effectiveness of the EMT educational program.
 - II. An EMS Program Director in EMS institutions authorized to provide Paramedic or AEMT educational programs may also administer EMT educational programs.
- (IV) Medical Director. The program shall appoint a medical director who shall be responsible for reviewing and approving the educational content of the program's curriculum. The medical director shall:
- I. Review and approve the content and quality of the medical instruction and supervision the EMS educational program delivers;
 - II. Ensure that each student is appropriately assessed to assure that the student is making adequate progress toward the completion of the educational program; and
 - III. Attest that each student has achieved the desired level of competence prior to graduation.
- (V) Instructional Faculty
- I. The faculty shall be authorized by the Division and qualified through academic preparation, training, and experience to teach the courses or topics to which they are assigned in the curriculum.
 - II. Faculty members shall demonstrate individual proficiency and qualifications by submitting a

(Rule 1200-12-01-.13, continued)

- personal Curriculum Vitae that will be kept on file with the Program Director.
- III. The number of faculty instructors shall be sufficient to provide instruction and supervision for each period of the program or field experience.
- (VI) An Authorized Paramedic Instructor/Coordinator shall be responsible for the delivery of instruction in a Paramedic education program.
- I. The Paramedic Instructor/Coordinator shall be knowledgeable in all aspects of pre-hospital care, capable of applying techniques and modalities of adult education, and of managing resources and resource personnel.
- II. Paramedic Instructor Assistants shall be responsible for teaching practical skills to include: assisting the Program Director and/or Instructor/Coordinator in the delivery of instruction, evaluating student performance of skills under supervision of Program Director or Authorized Paramedic Instructor/Coordinator.
- (VII) An authorized AEMT Instructor/Coordinator shall be responsible for the delivery of instruction in an AEMT educational program.
- I. An authorized AEMT Instructor/Coordinator shall be in the classroom for, at least but not limited to, the following:
- A. Delivery of didactic material;
- B. Demonstration of the psychomotor skills;
- C. Verification of skill proficiency; and
- D. Supervision of AEMT Instructor Assistants.
- II. The education program may utilize Authorized AEMT Instructor Assistants for teaching practical skills including, but not limited to, assisting the Program Director and/or AEMT Instructor/Coordinator in the delivery of instruction and evaluating student performance of skills during a lab.
- (VIII) An authorized EMT Instructor/Coordinator shall be responsible for the delivery of instruction in an EMT educational program.

(Rule 1200-12-01-.13, continued)

- I. An authorized EMT Instructor/Coordinator shall be in the classroom for, at least but not limited to, the following:
 - A. Delivery of didactic material;
 - B. Demonstration of the psychomotor skills;
 - C. Verification of skill proficiency; and
 - D. Supervision of EMT Instructor Assistants.
- II. The education program may utilize Authorized EMT Instructor Assistants for teaching practical skills including, but not limited to, assisting the Program Director and/or EMT Instructor/Coordinator in the delivery of instruction and evaluating student performance of skills during a lab.

4. Resources.

- (i) Finances. Financial resources adequate for the continued operation of the educational program shall be provided for each class of students enrolled.
- (ii) Facilities.
 - (I) Instructional resources shall include:
 - I. Classrooms, laboratories and administrative offices with sufficient space to accommodate the number of students matriculating in the program and the supporting faculty;
 - II. Library resources, related to the curriculum, shall be readily accessible to students and shall include current EMS and medical periodicals, scientific books, audiovisual and self-instructional resources, and other references; and
 - III. Available sufficient supplies and equipment to be used in the provision of instruction that are consistent with the needs of the curriculum and adequate for the students enrolled.
 - (II) Clinical Resources
 - I. The educational program shall establish clinical affiliations that are confirmed by written affiliation agreements with the institutions and agencies that provide students with clinical experience under appropriate medical direction and clinical supervision.

(Rule 1200-12-01-.13, continued)

- II. Students shall have access to an adequate number of patients and in distribution by sex and age who present common problems encountered in the delivery of basic and advanced emergency care.
- III. Students shall be assigned in clinical settings where experiences are educationally sufficient to achieve the national educational standards for the appropriate level of licensure.
- IV. Program instructors or hospital personnel, such as nurses or physicians, who have been approved by the program to so function, shall provide supervision in the clinical setting. The ratio of students to instructors in the clinical facilities shall be adequate to assure effective learning.
- V. Students shall be clearly identified by name plate, uniform, or other apparent means to distinguish them from graduate emergency medical services personnel, other health professionals, workers, and other students.

(III) Field Internship

- I. The program's field internship shall occur within an emergency medical system which demonstrates medical accountability. The student must be under direct supervision of preceptors the program and/or EMS services designate. Preceptors shall be physicians and/or nurses with pre-hospital experience, AEMTs or paramedics. The program shall assure that there is appropriate, objective evaluation of student progress in acquiring the desired competencies in accordance with the national education standards.
- II. Field internship shall occur on an Advanced Life Support vehicle within an EMS system having capability of voice telecommunications with on-line medical direction. The vehicle shall be equipped with equipment and drugs necessary for basic and advanced life support.
- III. The majority of the field internship experience shall occur following the completion of the didactic and clinical phases of the program. It must be structured to assure that upon completion of this portion of the program, each student will achieve the desired competencies of the national educational standards.

(Rule 1200-12-01-.13, continued)

IV. Adequate manpower shall be available within the EMS system to assure that the assigned student is never a substitute for paid personnel or a required team member.

5. Students Admission and Conduct.

- (i) Selection and admission practices for entrance into an EMT, AEMT, or Paramedic education program shall be based on the following criteria and shall be clearly defined and published by the institution and shall be non-discriminatory with respect to race, color, creed, sex, age, handicaps, or national origin.
- (I) Meet the admission requirements of the EMS educational institution.
- (II) Possess an academic or equivalent high school diploma or general education equivalent (GED).
- (ii) Upon selection for admission into the EMT, AEMT, or Paramedic program, the student shall:
- (I) Show good physical and mental health and possess no physical handicaps or disabilities which would impede the ability to fulfill the functions and responsibilities of an EMT, AEMT, or Paramedic.
- (II) Submit a physical examination form indicating physical health sufficient to perform the duties of an EMT, AEMT, or Paramedic completed by a physician, physician assistant, or nurse practitioner, who has examined the individual. If there are any limitations in the individual's ability to perform adequately, additional documentation shall be submitted from the appropriate professional evaluator which indicates the applicant's abilities to perform adequately (i.e.):
- I. Speech impairment - Speech Pathologist;
- II. Hearing impairment - Audiologist;
- III. Physical handicap or disability - Orthopedist or Registered Physical Therapist; or
- IV. Vision – Ophthalmologist.
- (III) Readmission or transfer of students shall be made in accordance with clearly defined and published practices of the institution which shall be non-discriminatory with respect to race, color, creed, sex, age, handicaps, or national origin.
- (IV) Dismissal. Students shall be subject to dismissal from the education program for cause.

6. Program Records

(Rule 1200-12-01-.13, continued)

(i) Each student record shall include the following:

- (I) A transcript of high school graduation or graduate equivalent (GED), or official academic college transcript in each student's file;
- (II) Medical evidence that the protection of students and the public from injury or the transmission of communicable diseases is assured for each student;
- (III) A record of class and practice participation along with evidence of competencies attained throughout the education program;
- (IV) Copies of examinations and assessments of the student's development and attainment of competencies;
- (V) Sufficient information to document each student's satisfactory completion of all didactic, practical skills, laboratory, clinical, and field requirements.
- (VI) Copies of proof of malpractice insurance on each student enrolled in the program with minimal coverage of \$1,000,000.00/\$3,000,000.00 which will extend for the entire duration of the education program; and
- (VII) The records maintained by the institution shall be complete whether or not a student is successful in completing the prescribed course of instruction.

(ii) Each academic record shall include:

- (I) A descriptive synopsis of the current curriculum; and
- (II) A statement of course objectives, copies of course outlines, class and laboratory schedules, clinical and field internship experience schedules, and teaching plans.

7. Student Admission. In addition to requirements for admission to all EMT education programs, applicants for admission to AEMT Education programs shall meet requirements as follows:

- (i) Hold a current Tennessee EMT license prior to admission; or
- (ii) Have successfully completed the EMT education program within 120 days of beginning an Advanced EMT education program and have successfully completed a Board approved EMT competency written and practical examination.

(3) Paramedic Education Programs.

- (a) Upon initial approval of a paramedic program by the EMS Board, all paramedic education programs must make application to the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP) and receive a letter of review for accreditation with the Commission

(Rule 1200-12-01-.13, continued)

of Accreditation of Allied Health Education Programs (CAAHEP) and shall be accredited within four (4) years of Initial application of CAAHEP.

- (b) All Paramedic programs must maintain accreditation with CAAHEP.
- (c) Additional admission requirements for paramedic education programs.
 - 1. To be eligible for admission an applicant shall be currently licensed as an Advanced Emergency Medical Technician in the State of Tennessee.
 - 2. The applicant must be evaluated using a scale where each requirement will receive a score of 0-5 depending on the quality of achievement with 5 being the highest and 0 being the lowest. Applicants selected shall receive an overall interview rating of 2.5 and above.
 - 3. AEMT knowledge. The applicant having successfully completed an AEMT license exam more than one year prior to the start of Paramedic classes must successfully complete an AEMT assessment written examination approved by the Board.
 - 4. An applicant shall be interviewed and evaluated. Each area evaluated in the interview shall be rated with a score of 0-5 depending on the quality of achievement, with 5 being the highest score and 0 being the lowest. Applicants selected shall receive an overall rating of 2.5 and above.
 - (i) The applicant shall be interviewed by a committee of at least four (4) individuals and a representative from the Division of Emergency Medical Services. Committee members shall be selected from the following: an EMS educator, a registered nurse, a physician, a paramedic, and/or an ambulance service director.
 - (ii) The following criteria shall be used for interview evaluation:
 - (I) EMS related experience;
 - (II) Level of maturity and motivation;
 - (III) Level of knowledge;
 - (IV) Communication ability; and
 - (V) Poise.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-140-304, 68-140-504, 68-140-506, 68-140-508, and 68-140-509. **Administrative History:** Original rule filed November 30, 1985; effective February 12, 1985. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 17, 1989; effective March 3, 1989. Amendment filed September 24, 1990; effective November 8, 1990. Amendment filed October 22, 1993; effective January 5, 1994. Amendment filed August 5, 1996; effective October 19, 1996.

(Rule 1200-12-01-.15, continued)

- (c) Copies of orders, invoices or other documents asserting title or ownership of medical equipment, including contracts or agreements pertaining to state-issued equipment consigned to the service.
- (4) Ambulance equipment inventory - An ambulance equipment inventory shall be recorded not less than every three (3) days for each vehicle reflecting an accurate status of patient care equipment, safety devices, and supplies. Each service shall adopt forms or procedures appropriate to this purpose which shall be available for inspection reflecting status of a period of at least three (3) months.
- (5) Each ambulance service shall maintain a file of FCC-related records in accordance with 47 C.F.R., Part 90.443. Such records shall include that of any transmitter maintenance, base or mobile, which affects frequency, modulation or power output tolerance of the transmitter, and those periodic reports of inspection of antenna support structures which are required to be illuminated.
- (6) All records detailed herein shall be made available when requested for inspection by a duly authorized representative of the department.

Authority: T.C.A. §§ 4-5-202, 4-5-203, 4-5-204, 68-140-502, 68-140-504, 68-140-505, 68-140-507, 68-140-508, 68-140-509, and 68-140-519. **Administrative History:** Original rule filed November 30, 1984; effective February 12, 1985. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed August 11, 1993; effective October 25, 1993. Amendment filed October 21, 1993; effective January 4, 1994. Amendment filed June 5, 1998; effective August 19, 1998. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed May 26, 2010; effective August 24, 2010.

1200-12-01-.16 EMERGENCY MEDICAL FIRST RESPONDERS.

- (1) Definitions- The terms used in this rule shall be defined as follows:
 - (a) ~~First Responder~~ means a person who has completed required training and who participates in an organized program of mobile pre-hospital emergency medical care.
 - (b) ~~First Responder Certification~~ means successful participation and completion of the First Responder Course and certifying examinations.
 - (c) ~~First Responder Course~~ means instruction in basic knowledge and skills necessary to provide emergency medical care to the sick and injured individuals who may respond before licensed Basic or Advanced Life Support units arrive.
 - (a) Emergency Medical Responder (First Responder) means a person who has completed required training and who participates in an organized program of mobile pre-hospital emergency medical care.
 - (b) Emergency Medical Responder (First Responder) Certification means successful participation and completion of the Emergency Medical Responder Course and certifying examinations.
 - (c) Emergency Medical Responder (First Responder) Course means instruction in basic knowledge and skills necessary to provide emergency medical care to the sick and injured individuals who may respond before licensed Basic or Advanced Life Support units arrive.
 - (d) First Responder Service - shall mean a service providing capabilities for mobile pre-hospital emergency medical care using emergency medical response vehicles.

(Rule 1200-12-01-.16, continued)

(2) Operation of First Responder Services. A licensed ambulance service classified as a primary provider shall coordinate first response services within its service area. If the primary provider is a contracted ambulance service, the county or local government may designate a representative who shall coordinate first responder services within the service area of its jurisdiction. First responder services shall meet the following standards for participation in the community EMS system. To participate in the community EMS system, each First Responder Service shall:

- (a) Be a state-chartered or legally recognized organization or service sanctioned to perform emergency management, public safety, fire fighting, rescue, ambulance, or medical functions.
- (b) Provide a member on each response who is certified as a First Responder, Emergency Medical Technician, or EMT- Paramedic in Tennessee.
 1. Personnel may provide the following additional procedures with devices and supplies consigned under medical direction:
 - (i) First Responders and Emergency Medical Technicians trained in an appropriate program authorized by the Division may perform defibrillation in a pulseless, nonbreathing patient with an automated mode device.
 - (ii) Emergency Medical Technicians-IV and EMT-Paramedics may administer:
 - (I) Intravenous fluids with appropriate administration devices.
 - (II) Airway retention with Board approved airway procedures.
 - (iii) EMT-Paramedics and advanced life support personnel trained and authorized in accordance with these rules may perform skills or procedures as adopted in Rule 1200-12-01-.04(3).
 - (iv) First Responders and Emergency Medical Technicians participating in a recognized first responder organization within the community EMS system may, upon completion of the approved training, periodic review training, and concurrent quality assurance of the local EMS system Medical Director, utilize a dual-lumen airway device (such as the Combitube or Pharyngeal Tracheal Lumen airway) that has been approved by the EMS Board.
 2. Such procedures shall be consistent with protocols or standing orders as established by the ambulance service medical director.
 3. Services shall provide at least six (6) hours of annual in-service training to all EMS First Responder personnel, in a plan and with instructors approved by the medical director.
- (c) Provide services twenty-four (24) hours a day, seven (7) days a week, and notify the primary service and dispatching agent of any time period in which the service is not available or staffed for emergency medical response.
- (d) Provide minimum equipment and supplies and such other equipment and supplies as shall be mutually adopted under the agreement with the primary ambulance service and medical director. The following minimum equipment shall be provided:
 1. Emergency Medical Care (Jump) Kit containing:

(Rule 1200-12-01-.16, continued)

- (i) Dressings and bandaging supplies, with adhesive tape, adhesive bandages, sterile 4" gauze pads, sterile ABD pads, 3" or wider gauze roller bandages, bandage shears, occlusive dressing materials, at least four triangular bandages, and burn sheets.
 - (ii) Patient assessment and protective supplies including a flashlight, disposable gloves, antibacterial wipes or solution with tissues, trash bags, an adult blood pressure cuff with manometer and a stethoscope.
2. Resuscitative devices including oral airways in at least five sizes, a pocket mask, suction device capable of 12 inches vacuum with suction tips for oropharyngeal suction, and an oxygen administration unit capable of 2 to 15 liters per minute flow rate with a minimum 150 liter supply.
3. Splints for upper and lower extremities.
4. Patient handling equipment including a blanket and appropriate semi-rigid extrication collars.
- (e) Develop and maintain a memorandum of understanding or agreement of coordination within the service area with the primary provider of emergency ambulance services. If the primary provider is a contracted ambulance service, said agreement shall be developed and maintained with the designated representative of the county or local government. Such agreement will provide for policies and procedures for the following:
 1. Personnel and staffing, including a roster of response personnel and approved procedures for such personnel, and the crew component operational for emergency medical response.
 2. Designation of vehicles to be operated as pre-hospital emergency response vehicles, including unit identifiers and station or location from which vehicles will be operated.
 3. Nature of calls for which first response services will be dispatched, and dispatch and notification procedures that assure resources are simultaneously dispatched and that ambulance dispatch is not deferred or delayed.
 4. Radio communications and procedures between medical response vehicles and emergency ambulance services.
 5. On-scene coordination, scene control and responsibilities of the individuals in attendance by level of training.
 6. Medical direction and protocols and/or standing orders under the authority of the ambulance service medical director.
 7. Exchange and recovery of required minimum equipment and supplies and additional items adopted for local use.
 8. Exchange of patient information, records and reports, and quality assurance procedures.
 9. Terms of the agreement including effective dates and provisions for termination or amendment.

(Rule 1200-12-01-.16, continued)

- (f) First responder services shall maintain professional liability insurance providing indemnity to emergency care personnel and the organization. Each first responder service shall maintain the minimum liability coverage which is set forth in T.C.A. § 29-20-403.

~~(3) First Responder Training Programs:~~

(3) Emergency Medical Responder (First Responder) Training Programs:

- (a) Shall utilize texts and curriculums approved by the Board.
- (b) Class size shall not exceed twenty-five (25) students per instructor.
- (c) Course must be conducted by an instructor authorized by the Division.
- (d) Shall obtain course approval from the Division.
- (e) Shall provide an attendance policy acceptable to the Division.
- (f) Shall maintain accurate attendance records.
- (g) Must maintain student records, such as exams, attendance records and skills verification for 5 years.
- (h) Must provide documentation of a student's successful completion of course, attendance, and verification of skills competency to the Division.
- (i) Must provide adequate classroom space with adequate lighting and ventilation.
- (j) Must provide adequate lab space for skills practice.
- (k) Must assure adequate audio visual instructional aids and supplies are available.
- (l) Must provide adequate equipment for skills training.

~~(4) First Responder Certification requirements:~~

- ~~(a) Must be at least seventeen (17) years of age.~~
- ~~(b) Must be able to read, write and speak the English language.~~
- ~~(c) Must be currently certified in Basic Cardiopulmonary Resuscitation.~~
- ~~(d) Must meet all attendance requirements of training program.~~
- ~~(e) Must successfully complete an approved First Responder Course.~~
- ~~(f) Must successfully complete written examinations within two (2) years of completion of First Responder course.~~
 - ~~1. Achieve a passing score on a Board approved written examination with a minimum score as established by the Board.~~
 - ~~2. Applicants who fail to pass the examination shall be eligible to reapply for examination.~~

(Rule 1200-12-01-.16, continued)

- ~~(g) Must submit an Application for certification form as provided by the Division of Emergency Medical Services.~~
- ~~(h) Must remit the appropriate certification and application fees, as determined under rule 1200-12-01-.06.~~
- ~~(i) Certification shall be issued for a period not to exceed two (2) years.~~

~~(5) First Responder renewal certification:~~

~~(a) Certifications may be renewed upon filing an application, possession of a current Cardiopulmonary Resuscitation card verifying successful completion of a basic life support course which includes automatic external defibrillation for health care professionals, and verification of one of the following:~~

- ~~1. Successful completion of refresher training course of at least sixteen (16) hours meeting the refresher course curriculum approved by the board; or~~
- ~~2. Satisfactory completion of an approved renewal examination; or~~
- ~~3. Completion of ten (10) continuing education hours in the following areas:~~

~~(i) Preparatory: one (1) hour consisting of:~~

- ~~(I) EMS systems.~~
- ~~(II) Well being of the first responder.~~
- ~~(III) Legal and ethical issues.~~
- ~~(IV) Human body.~~
- ~~(V) Lifting and moving patients.~~

~~(ii) Airway: two (2) hours.~~

~~(iii) Patient assessment: two (2) hours.~~

~~(iv) Circulation: one (1) hour.~~

~~(v) Illness and injury: two (2) hours.~~

~~(I) Medical: one (1) hour.~~

~~(II) Trauma: one (1) hour.~~

~~(vi) Children and childbirth: one (1) hour.~~

~~(vii) Rescue and EMS operations: one (1) hour.~~

~~(b) Those persons who fail to timely renew certification as provided by law are subject to the following:~~

- ~~1. Late renewal within sixty (60) days or less from the expiration of certification will require payment of a twenty-five dollar (\$25.00) reinstatement fee, and in addition~~

(Rule 1200-12-01-.16, continued)

~~to CPR certification, successful completion of either, the approved written examination or the required refresher course.~~

- ~~2. Reinstatement of certification sought to be renewed more than sixty (60) days after expiration of certification but less than two years will require payment of a twenty-five (\$25.00) reinstatement fee and in addition to CPR certification, successful completion of both the refresher course and the approved written examination.~~

~~(c) Out-of-State requirements for certification: Any First Responder who holds a current certification in another state and who has completed an approved US Department of Transportation First Responder Course may apply for Tennessee First Responder certification by complying with the following:~~

- ~~1. Conform to all certification requirements for Tennessee First Responder; and,~~
- ~~2. Successful completion of any EMS Board approved written and practical examinations; and,~~
- ~~3. Submit the appropriate application forms and fees, if applicable, to the Division of Emergency Medical Services.~~

(64) Official response shall be performed only as assigned upon the specific policy guidelines of the coordinating dispatch agency responsible for dispatching emergency ambulances and/or an emergency (911) communications district. No emergency medical first responder or emergency medical response vehicle shall be authorized to make an unofficial response on the basis of information obtained by monitoring a radio frequency of a law enforcement, ambulance service, fire department, rescue squad, or public safety agency.

Authority: §§4-5-202, 4-5-204, 68-140-304, 68-140-504, 68-140-504(1) and (2), 68-140-506, 68-140-506(c), 68-140-507, 68-140-508, 68-140-508(a) & (b), and 68-140-517. **Administrative History:** Original rule filed March 25, 1987; effective May 9, 1987. Amendment filed March 7, 1989; effective April 21, 1989. Amendment filed March 7, 1994; effective May 21, 1994. Amendment filed January 9, 1997; effective March 25, 1997. Amendment filed November 16, 2005; effective January 30, 2006. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed April 6, 2010; effective July 5, 2010.

1200-12-01-.17 UNETHICAL PRACTICES AND CONDUCT. Emergency medical services and emergency medical services personnel shall be subject to discipline or may be denied authorization for unethical practices or conduct which includes but shall not be limited to the following:

- (1) Engaging in acts of dishonesty which relate to the practice of emergency medical care.
- (2) Failing to report to appropriate personnel facts known to the individual regarding incompetent, unethical, or illegal practice of any other emergency medical services personnel.
- (3) Failing to take appropriate action in safeguarding the patient from incompetent health care practices of emergency medical services personnel.
- (4) Violating confidentiality of information or knowledge concerning the patient, except when required to do so by a court of law or authorized regulatory agency.
- (5) Engaging in the delivery of emergency medical services on a revoked, suspended, expired, or inactive license, or beyond the scope of a modified or conditioned license.
- (6) Accepting and performing, or attempting to perform, professional responsibilities which the licensee knows, or has reason to know, he is not competent to perform.

* 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)
Sullivan K. Smith, MD	X				
Timothy Bell			X		
Susan M. Breeden	X				
Ralph Brooks, MD	X				
Jeffrey L. Davis	X				
Richard Holliday	X				
Larry Hutsell		X			
Kevin Mitchell	X				
Dennis W. Parker	X				
James E. Ross	X				
Robert W. Thurman, Jr.	X				
Robert A. Webb		X			
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Emergency Medical Services Board on 06/20/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/02/12 and 04/30/12

Rulemaking Hearing(s) Conducted on: (add more dates). 03/29/12 and 06/20/12

Date: June 22, 2012

Signature: Lucille F. Bond

Name of Officer: Lucille F. Bond

Title of Officer: Assistant General Counsel
Department of Health



Subscribed and sworn to before me on: 6/22/12

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/3/15

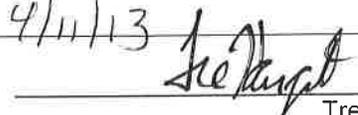
All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
1-9-13
 Date

Department of State Use Only

Filed with the Department of State on: 1/11/13

Effective on: 4/11/13



Tre Hargett
Secretary of State

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SECRETARY OF STATE
FULTON COUNTY

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Office of Policy, Planning and Assessment

DIVISION: Health Statistics

SUBJECT: Reporting of Claims Data

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-1-119

EFFECTIVE DATES: June 30, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rulemaking amends the rule relative to reporting of claims data by ambulatory surgical treatment centers to include reporting by outpatient diagnostic centers in accordance with Tennessee Code Annotated, Section 68-1-119.

Regulatory Flexibility Addendum

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

This proposed 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 will have no 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
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For Department of State Use Only

Sequence Number: 01-20-13
 Rule ID(s): 5367
 File Date: 1/29/13
 Effective Date: 6/30/13

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:	Office Of Policy, Planning and Assessment
Division:	Health Statistics
Contact Person:	Teresa Hendricks
Address:	425 5th Avenue North, Nashville TN
Zip:	37243
Phone:	615-741-1954
Email:	Teresa.Hendricks@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-07-04	Ambulatory Surgical Treatment Center Data System
Rule Number	Rule Title
1200-07-04-.01	Definitions
1200-07-04-.02	Purpose
1200-07-04-.03	Reporting Requirements
1200-07-04-.04	Required Data Elements
1200-07-04-.05	Submission Schedule
1200-07-04-.06	Penalty Assessment
1200-07-04-.07	Vendor Requirements
1200-07-04-.08	Processing and Verification
1200-07-04-.09	Data Availability
1200-07-04-.10	Confidential Information

RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BUREAU OF HEALTH INFORMATICS
OFFICE OF HEALTH STATISTICS

CHAPTER 1200-7-4
AMBULATORY SURGICAL TREATMENT CENTER DATA SYSTEM

TABLE OF CONTENTS

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1200-7-4-.04	Required Data Elements	1200-7-4-.09	Data Availability
1200-7-4-.05	Submission Schedule	1200-7-4-.10	Confidential Information

1200-7-4.01 DEFINITIONS.

- (1) ~~“Ambulatory Surgical Treatment Center” shall be defined as in T.C.A. §68-11-201.~~
- (2) ~~“CMS-1500” is defined to be form Centers for Medicare & Medicaid Services-1500. In July 2001, the Health Care Financing Administration (HCFA) became the Centers for Medicare & Medicaid Services (CMS). Prior to this name change, the CMS-1500 form had been known as the HCFA-1500 form.~~
- (3) ~~“Commissioner” shall mean the commissioner of the Tennessee Department of Health.~~
- (4) ~~“Department” shall mean the Tennessee Department of Health.~~
- (5) ~~“Error” is defined as data that are incomplete or inconsistent with the specifications in the Ambulatory Surgical Treatment Center Data System Procedural Manual.~~
- (6) ~~“Final Joint Annual Report” is defined as the most recent Joint Annual Report filed by an Ambulatory Surgical Treatment Center where the data contained in the report have been edited, queried, and updated when appropriate, by the Department of Health.~~
- (7) ~~“Outpatient” shall be defined as a person receiving reception and care in an Ambulatory Surgical Treatment Center (ASTC) for a continuous period less than twenty four (24) hours for the purpose of giving advice, diagnosis, nursing service, or treatment bearing on the physical health of the person, excluding persons receiving maternity care involving labor and delivery.~~
- (8) ~~“Personal Identifiers” shall be defined to include the following data elements:
Insured’s ID Number
Patient’s Name
Insured’s Name
Patient’s Address: No., Street
Patient’s Zip Code (digits 6-9)
Patient’s Telephone Number
Insured’s Address: No., Street
Insured’s Zip Code (digits 6-9)
Insured’s Telephone Number
Other Insured’s Name
Other Insured’s Policy or Group Number
Insured’s Policy Group or FECA Number
Patient’s Account No.
Patient’s Social Security Number~~

(Rule 1200-7-4-.01, continued)

- (9) ~~“Processed Data” is defined as data that have been analyzed by the Department’s designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.~~
- (10) ~~“Public” shall be defined as anyone other than the THA and the Department of Health.~~
- (11) ~~“THA” shall be defined as the administrative offices and staff of the Tennessee Hospital Association.~~
- (12) ~~“Verified Data” is defined as data that have been processed by the Department of Health after the health facilities have had the opportunity to suggest corrections, and/or deletions; and all appropriate revisions have been made to the data by the Department of Health.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.02 PURPOSE.~~

~~The reporting of ambulatory patient data will provide a statewide integrated database of ambulatory surgical procedures and certain radiological procedures and permit assessment of variations in utilization, practice parameters, access to ambulatory care and estimates of cost trends for ambulatory procedures.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.03 REPORTING REQUIREMENTS.~~

- (1) ~~Each licensed Ambulatory Surgical Treatment Center (ASTC) shall report to the Tennessee Department of Health all claims data found on the appropriate form on every patient visit. Claims for discharges reported by ASTCs to the Department under Section 68-3-505 shall not be required.~~
- (2) ~~Each ASTC shall submit the data through third party entities, hereafter referred to as “vendors”, approved by the Department of Health for the purpose of editing the data according to rules and regulations established by the Commissioner.~~
- (3) ~~The format for reporting the required data elements, and the standards for completeness are defined by the Department in the Ambulatory Surgical Treatment Center Procedural Manual.~~
- (4) ~~Each ASTC shall be responsible for the costs associated with processing of the data by the approved vendors.~~
- (5) ~~Each ASTC shall report the claims data at least quarterly to its approved vendor with a separate data set for each facility location.~~
- (6) ~~Each ASTC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the individual’s name, title, work address, work telephone number, and e-mail address.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

1200-7-4-.04 REQUIRED DATA ELEMENTS.

- (1) ~~The Tennessee Department of Health, Office of Health Statistics (TDH HS) will oversee the development of the Ambulatory Surgical Treatment Center Data System (ASTC) Procedural Manual that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department of Health shall make future changes in the Procedural Manual when the Commissioner deems changes to be necessary. The Department will notify reporting entities of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.~~

- (2) ~~The data set for each reported discharge, regardless of payer, will include, but is not limited to, the following data elements, as listed on form CMS-1500:~~
 1. ~~Type of Insurance~~
 - 1a. ~~Insured's ID Number~~
 2. ~~Patient's Name~~
 3. ~~Patient's Date of Birth and Sex~~
 4. ~~Insured's Name~~
 5. ~~Patient's Address: No., Street~~
 5. ~~Patient's Address: City, State~~
 5. ~~Patient's Zip Code~~
 5. ~~Patient's Telephone Number~~
 6. ~~Patient Relationship to Insured~~
 7. ~~Insured's Address: No., Street~~
 7. ~~Insured's Address: City, State~~
 7. ~~Insured's Zip Code~~
 7. ~~Insured's Telephone Number~~
 8. ~~Patient Status~~
 9. ~~Other Insured's Name~~
 - 9a. ~~Other Insured's Policy or Group Number~~
 - 9b. ~~Other Insured's Date of Birth and Sex~~
 - 9c. ~~Other Insured's Employer's/School Name~~
 - 9d. ~~Insurance Plan/Program Name~~
 - 10a. ~~Patient's Condition Related to Employment~~
 - 10b. ~~Patient's Condition Related to Auto Accident~~
 - 10c. ~~Patient's Condition Related to Other Accident~~
 11. ~~Insured's Policy Group or FECA Number~~
 - 11a. ~~Insured's Date of Birth and Sex~~
 - 11b. ~~Insured's Employer's/School Name~~
 - 11c. ~~Insurance Plan/Program Name~~
 - 11d. ~~Another Health Benefit Plan~~
 14. ~~Date of Current Illness/Injury/Pregnancy~~
 15. ~~First Date of Same/Similar Illness~~
 16. ~~Dates Patient Unable to Work~~
 17. ~~Name of Referring Physician or Other Source~~
 - 17a. ~~ID of Referring Physician~~
 18. ~~Hospitalization Dates Related to Current Services~~
 20. ~~Outside Lab & Charges~~
 21. ~~Diagnoses or Nature of Illness or Injury~~
 22. ~~Medicaid Resubmission: Code & Original Ref. No.~~
 23. ~~Prior Authorization Number~~
 - 24A. ~~Date(s) of Service~~
 - 24B. ~~Place of Service~~
 - 24C. ~~Type of Service~~

(Rule 1200-7-4-.04, continued)

- ~~24D. Procedures, Services, or Supplies~~
- ~~24E. Diagnosis Code~~
- ~~24F. Charges~~
- ~~24G. Days or Units~~
- ~~24H. EPSDT Family Plan~~
- ~~24I. EMG~~
- ~~24J. COB~~
- ~~25. Federal Tax ID Number & Type~~
- ~~26. Patient's Account No.~~
- ~~27. Accept Assignment~~
- ~~28. Total Charge~~
- ~~29. Amount Paid~~
- ~~30. Balance Due~~
- ~~32. Name and Address of Facility Where Services Were Rendered~~
- ~~33. Physician's, Supplier's Billing Name, Address, Zip Code, & Phone number~~
- ~~33. PIN number~~
- ~~33. GRP number~~

- ~~(3) If collected by the ASTC, the data set for each reported discharge will include the following data elements:~~
- ~~1. Patient's Social Security Number~~
 - ~~2. Patient's Race/Ethnicity (optional)~~

~~**Authority:** T.C.A. §§4-5-202, 4-5-204, and 68-1-119. **Administrative History:** Original rule filed January 27, 2005; effective April 12, 2005.~~

~~**1200-7-4-.05 SCHEDULE OF SUBMISSION.**~~

- ~~(1) All data submitted to the approved vendor by the ASTCs must be in a format and medium approved by the vendor.~~
- ~~(2) Submission of required data by the ASTCs to their approved vendor shall adhere to the following quarterly schedule:~~

Quarter	Time Span	Submission Due Date
Q1	January 1 - March 31	May 30
Q2	April 1 - June 30	August 29
Q3	July 1 - September 30	November 29
Q4	October 1 - December 31	March 1

- ~~(3) The approved vendor must receive all required data within 60 days following the close of the quarter.~~

~~**Authority:** T.C.A. §§4-5-202, 4-5-204, and 68-1-119. **Administrative History:** Original rule filed January 27, 2005; effective April 12, 2005.~~

~~**1200-7-4-.06 PENALTY ASSESSMENT.**~~

- ~~(1) Beginning with records due on or before January 1, 2004, the Department of Health will assess a civil penalty of five cents (\$.05) per record per day for delinquent discharge reports. A claims data report is delinquent if the approved vendor does not receive it within sixty (60) days after the end of the quarter.~~

(Rule 1200-7-4-.06, continued)

- (2) ~~If the vendor receives the report in incomplete form, the Commissioner shall notify the ASTC and provide fifteen (15) additional days for the ASTC to correct the error, prior to the imposition of any civil penalty.~~
- (3) ~~For ASTCs not submitting any discharge reports by the submission deadline, the number of quarterly discharge reports delinquent, for a particular facility per quarter, will be estimated by dividing the number of total discharges or admissions reported in Schedule D-Availability and Utilization of Services of the most current, final Joint Annual Report of Ambulatory Surgical Treatment Centers (JAR-ASTC) on file with the Department of Health for that facility by four (4).~~
- (4) ~~The Department will allow a 5% error rate on data submitted for discharges occurring before January 1, 2006. For discharges occurring on or after January 1, 2006, the acceptable error rate will be 2%. Records that fall within the acceptable error rate will not be subject to any penalties. Facilities that exceed the acceptable error rate will be penalized based on total errors (not on errors minus 5% or minus 2%).~~
- (5) ~~The Commissioner shall send notice of an approximate daily assessment of the civil penalty to the delinquent ASTC. The assessment will estimate the approximate penalty per day based on the estimated number of discharge reports. The assessment will state that penalties will begin to accrue on the due date and will accrue until the delinquent discharge reports are received or the maximum penalty is reached. The maximum civil penalty for a delinquent report is ten dollars (\$10) for each discharge record.~~
- (6) ~~Upon receipt of the penalty assessment, the ASTC has the right to an informal conference with the Commissioner. The Commissioner must receive a written request for an informal conference within thirty (30) days of the assessment, with a copy being sent to the Director of Health Statistics within the same time frame.~~
- (7) ~~After the informal conference with the Commissioner, or if no conference is requested, or the time frame for requesting a conference has expired, the Department may proceed to collect the penalty by setting the penalty off against funds owed to the ASTC or by billing the facility for the amount of the penalty. If the facility fails to submit the required amount to the Department within 60 days of the date of the bill, the Department may institute litigation.~~
- (8) ~~The Commissioner has the authority to delay any penalty for not correcting any particular data element and can grant a waiver from penalties if the failure is due to an act of God or other events of extraordinary circumstances clearly beyond the control of the ASTC. The facility must make a written request for the waiver and the informal conference within the first thirty (30) days following notification of the assessment. The proceedings before the Commissioner involving penalty waivers are not subject to the Uniform Administrative Procedures Act.~~

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.

~~1200-7-4-.07~~ **VENDOR REQUIREMENTS.**

- (1) ~~An applicant desiring to be approved as a statewide data processing vendor shall make written application to the Department of Health, Office of Health Statistics. The Department will approve a maximum of three vendors.~~
- (2) ~~The format for reporting the required codes and the standards for completeness and quality are defined by the Department in the ASTC Procedural Manual. Each record must include the ID number approved by the Department for the reporting ASTC and all generated fields specified by the~~

(Rule 1200-7-4-.07, continued)

Department in the ASTC Procedural Manual. All records submitted to the Department must be in an electronic or magnetic medium approved by the Department.

- (3) The applicant must demonstrate that it is capable of receiving, and compiling, from ASTCs throughout the State the patient data elements specified in 1200-7-4-.04 (2) of this rule.
- (4) The applicant must demonstrate that it is capable of examining the patient data it receives for accuracy, informing the ASTC submitting the patient data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correcting the patient data as directed by the ASTC and/or the Department.
- (5) The applicant shall affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.
- (6) If an approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its certification as an approved vendor.

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.

1200-7-4-.08 PROCESSING AND VERIFICATION.

- (1) Discharge data reported in an incorrect format or with elements inconsistent with this rule will be considered in error and returned to the reporting entity.
- (2) Discharge data considered in error is subject to the penalties as prescribed in T.C.A. §68-1-119, unless the errors are corrected within fifteen (15) days after the ASTC receives notification of existing errors.
- (3) Each approved vendor shall report quarterly to the Department the reporting status of all facilities utilizing its services. An update to the original report to update the status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department on an as requested basis. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.
- (4) Each approved vendor shall report all data received each quarter, including additions and corrections, to the Department no more than one hundred and twenty (120) days following the close of the quarter. If any facility's data is incomplete or incorrect at that time, the vendor shall contact the Department for a decision on whether the quarterly submission should be delayed to allow for the completion or correction of the data, or if that facility's data should be held for inclusion in the next quarterly submission.
- (5) After all data have been computerized, edited, updated, and determined to be the final corrected set by the Department, each ASTC shall be given the opportunity to review the entire data set relating to their facility prior to the data being released to the public, if they so desire.

(Rule 1200-7-4-.08, continued)

- (6) ~~The Ambulatory Surgical Treatment Center shall notify Health Statistics in writing of any errors in the data set. Valid explanations of the errors and documentation including correct data must be provided with the notification. The ASTC shall provide corrected records for the data set.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

1200-7-4-.09 DATA AVAILABILITY.

- (1) ~~Within thirty (30) days after all ASTC claims data has been verified and deemed final, the Department shall promptly make the data available to the Tennessee Hospital Association for review and copying.~~
- (2) ~~No data will be released to the public until the verification process is completed.~~
- (3) ~~The Commissioner has the authority to delay release of any particular data element(s) if it is determined that the quality or completeness of the information is not acceptable.~~
- (4) ~~The data file will be made available for release and purchase; however, the personal identifiers on the patient records will be removed to protect the confidentiality of the patients.~~
- (5) ~~The fee for preparation and release of the annual data file, or any subset of the annual file, will be \$220 per copy. No fee will be charged to an ASTC for its own finalized data.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

1200-7-4-.10 CONFIDENTIAL INFORMATION.

- (1) ~~All information reported to the Commissioner under this part is confidential until processed and verified by the Department.~~
- (2) ~~In no event may personal identifiers be released to anyone except qualified vendors nor shall information be made available to anyone by either the Department, vendors or the THA that reasonably could be expected to reveal the identity of a patient including those items contained in 45 C.F.R. § 514 (a) and (b).~~
- (3) ~~Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. ASTCs may receive information regarding the name of employer for their claims only.~~
- (4) ~~Neither the Department of Health nor THA shall release information to the public in violation of any other statutory provisions for confidentiality of health related matters or the providers of health services.~~
- (5) ~~The Department may use or authorize use of the compiled data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law.~~

~~*Authority:* T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.~~

(Rule 1200-7-4-.08, continued)

Chapter 1200-07-04

Ambulatory Surgical Treatment Center Data System and Outpatient Diagnostic Center Data System

- 1200-07-04-.01 Definitions
- 1200-07-04-.02 Purpose
- 1200-07-04-.03 Reporting Requirements
- 1200-07-04-.04 Required Data Elements
- 1200-07-04-.05 Submission Schedule
- 1200-07-04-.06 Vendor Requirements
- 1200-07-04-.07 Processing and Verification
- 1200-07-04-.08 Penalty Assessment
- 1200-07-04-.09 Data Availability
- 1200-07-04-.10 Confidential Information

1200-07-04-.01 Definitions

- (1) "Ambulatory Surgical Treatment Center" shall have the same definition as contained in T.C.A. § 68-11-201.
- (2) "ASTC" is the acronym for ambulatory surgical treatment center.
- (3) "Claim" shall mean a charge or bill for services rendered, billed to the patient, to another private individual, or to a third party payer, public or private.
- (4) "Claims Data" shall mean all data elements collected for all patients for whom an ASTC or ODC provides services that are entered on any claim form prepared by the ASTC or ODC and shall always include those required data elements identified in the subparagraphs listed in rule 1200-07-04-.04, paragraphs (1) and (2).
- (5) "CMS-1500" shall mean the claim form "Centers for Medicare & Medicaid Services 1500" or its successor form.
- (6) "Commissioner" shall mean the commissioner of the Tennessee Department of Health.
- (7) "Data Element" shall mean any individual piece of information collected from a patient by an ASTC or ODC during the process of providing services to that patient for which the ASTC or ODC will file a claim.
- (8) "Department" shall mean the Tennessee Department of Health.
- (9) "Error" shall mean data that are incomplete or inconsistent with the specifications in the ASTC Data System Procedural Manual, the ODC Data System Procedural Manual, or these rules.
- (10) "Final Joint Annual Report" shall mean the most recent Joint Annual Report filed by an ASTC or ODC where the data contained in the report have been edited, queried, and updated when appropriate, by the Department.
- (11) "JAR" is the acronym for Joint Annual Report.
- (12) "ODC" is the acronym for outpatient diagnostic center.

(Rule 1200-7-4-.08, continued)

- (13) "Outpatient Diagnostic Center" shall have the same definition as contained in T.C.A. §68-11-201.
- (14) "Personal Identifiers" shall be defined to include all the identifiers contained in 45 C.F.R. § 164.514 (b) or (e).
- (15) "Processed Data" shall mean data that have been analyzed by the Department or the Department's designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.
- (16) "Public" shall mean anyone other than the Tennessee Department of Health, its vendors, and its contracted agencies.
- (17) "Record Level Data" shall mean a set of data that is specific to individual patient claims.
- (18) "State" shall mean the government of the State of Tennessee including all its agencies.
- (19) "UB-04" shall mean the CMS Form 1450, [a.k.a. "the Uniform Hospital Billing Form"], or its successor forms as established by the National Uniform Billing Committee and the State Uniform Billing Implementation Committee.
- (20) "Vendor" shall mean a third party entity, approved by the Department, through whom an ASTC or ODC submits its claims data for the purpose of compilation and editing according to these rules and the instructions of the Department.
- (21) "Verified Data" shall mean data that have been processed by the Department after the ASTCs or ODCs have had the opportunity to suggest corrections and/or deletions, and all appropriate revisions have been made to the data and approved by the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.02 Purpose

- (1) The reporting of ambulatory surgical and outpatient diagnostic data will provide two statewide databases and permit assessment of variations in utilization, practice parameters, access to care, and charges.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.03 Reporting Requirements

- (1) Each ASTC and ODC shall contract with one of the approved vendors and shall report through its vendor all its claims data. Claims data for all free or charity services provided by any ASTC or ODC that otherwise submits claims for reimbursement shall also be reported to the vendor.
- (2) No claim reporting is required for any of the following:
 - (a) From a licensed ASTC or ODC that provides only free care and never bills for any services.

(Rule 1200-7-4-.08, continued)

- (b) Regarding any procedures already reported by an ASTC or ODC to the Department under T.C.A. § 68-3-505 or services ancillary thereto such as counseling, testing, or follow-up.
- (3) The Department will prepare the ASTC and ODC Data System-Procedural Manuals that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department shall issue revisions to the Procedural Manuals when the Commissioner deems it necessary. The Department will notify each ASTC, ODC, and vendor of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.
- (4) Each ASTC or ODC shall report all data elements using the actual values used for billing by the ASTC or the ODC. No data elements shall be encrypted or otherwise altered. This rule shall not be interpreted to prevent encryption of entire files for security in transmission to parties having the appropriate decryption software.
- (5) Each ASTC and ODC shall be responsible for submitting its data to the approved vendor in a format and medium approved by the State.
- (6) Each ASTC and ODC shall be responsible for the costs associated with the processing of the data by the approved vendors.
- (7) Each ASTC and ODC shall report in a format using the data elements which correspond with the claim form used by the ASTC or ODC for billing. If an ASTC or ODC submits claims using both the CMS-1500 and UB-04 forms, the claims data shall be submitted in separate data sets for each form.
- (8) Each ASTC and ODC shall report the claims data at least quarterly, pursuant to rule 1200-07-04-.05, to its approved vendor with a separate data set for each facility location.
- (9) Each ASTC and ODC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the name, title, work address, work telephone number, and e-mail address of the designated staff member.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.04 Required Data Elements

(1) CMS-1500 Claims Forms

- (a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the CMS-1500 form:

1. Patient's Birth Date
2. Patient's Sex
3. Patient's Address (State)
4. Patient's Address (Zip Code)

(Rule 1200-7-4-.08, continued)

- 5. Dates of Service (Through Date)
- 6. Diagnosis or Nature of Illness or Injury
- 7. Total Charge
- 8. Patient's Social Security Number
- 9. Patient's Race/Ethnicity

(b) Each ASTC and ODC must report to the Department all CMS-1500 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.

(2) UB-04 Claims Forms

(a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the UB-04 form:

- 1. Statement Covers Period
- 2. Patient's Address (State)
- 3. Patient's Address (Zip Code)
- 4. Patient's Date of Birth
- 5. Patient's Sex
- 6. Revenue Codes
- 7. Total Charges (By Revenue Code Category)
- 8. Principal Diagnosis Code
- 9. Patient's Social Security Number
- 10. Patient's Race/Ethnicity

(b) Each ASTC and ODC must report to the Department all UB-04 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.

(3) Each ASTC and ODC shall report to the Department all data elements that it collected from patients and which it reported by making an entry in any or all of the data element spaces contained on any form other than the CMS-1500 or UB-04 on which it submits a claim. However, the data elements identified in paragraphs (1)(a) and (2)(a) above that must be collected, entered and reported to the Department by the ASTC or ODC for the identified claim form shall also be reported to the Department when any other claim form is used.

(4) Data elements collected by the ASTC or ODC that are not specifically identified in either paragraphs (1) through (3) of this rule or in the procedural manual shall not be reported to the vendor or the Department.

(Rule 1200-7-4-.08, continued)

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.05 Submission Schedule

- (1) Each ASTC or ODC shall submit all required claims to its approved vendor according to the following quarterly schedule:

<u>Quarter</u>	<u>Time Span</u>	<u>Submission Due Date</u>
<u>Q1</u>	<u>January 1 – March 31</u>	<u>May 30</u>
<u>Q2</u>	<u>April 1 – June 30</u>	<u>August 29</u>
<u>Q3</u>	<u>July 1 – September 30</u>	<u>November 29</u>
<u>Q4</u>	<u>October 1 – December 31</u>	<u>March 1</u>

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.06 Vendor Requirements

- (1) An applicant desiring to be approved as a statewide data processing vendor shall make written application to the Department. To be selected as a statewide vendor by the Department the applicant must demonstrate the ability to do all of the following:
- (a) Process the claims data as specified by the Department using the codes and the standards for completeness and quality specified by the Department.
 - (b) Include in each claims data record the ID number approved by the Department for the reporting ASTC or ODC and all vendor-generated fields specified by the Department.
 - (c) Examine the claims data it receives for accuracy, inform the ASTC or ODC submitting the data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correct the data as directed by the ASTC, the ODC, and/or the Department.
 - (d) Submit the claims data to the Department in an electronic or magnetic medium or process approved by the Department.
 - (e) Report to the Department each ASTC or ODC that has either failed to submit claims data or is tardy in doing so.
 - (f) Affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.

(Rule 1200-7-4-.08, continued)

- (2) If any approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its approval as a statewide data processing vendor.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.07 Processing and Verification

- (1) Each vendor must review all claims data submitted for completeness and accuracy. If errors, inconsistencies or incomplete elements are identified by the vendor, the vendor must report the errors to the ASTC or ODC in writing.
- (2) Upon receiving written notification of errors, the ASTC or ODC shall investigate the problem and shall supply correct information to the vendor within fifteen (15) days from notification.
- (3) Each approved vendor must report quarterly to the Department the reporting status of all ASTCs or ODCs utilizing its services. The status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department quarterly and then updated at the initiative of the vendor or upon request of the Department. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.
- (4) Each approved vendor must report all data received each quarter, including additions and corrections, to the Department no more than sixty (60) days following the submission due date specified in rule 1200-07-04-.05.
- (5) Each ASTC and ODC shall be given a ten (10) day period to review the quarterly data set relating to their facility after the quarterly data have been computerized, edited, updated, and determined to be the final corrected set by the Department. Upon the expiration of the ten (10) day period, absent receipt of corrections and/or revisions from an ASTC or ODC, the quarterly data is considered verified. If corrections and/or revisions are received by the Department within the ten day period, the quarterly data is considered verified only after the Department has made any corrections and/or revisions it considers appropriate.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.08 Penalty Assessment

- (1) The Department will assess the civil penalties authorized by T.C.A. § 68-1-119(b) each day claims data are reported later than the submission due date identified in rule 1200-07-04-.05 or not reported at all up to the statutory maximum for each claim record.
- (2) Any ASTC or ODC not submitting any claims data by the submission deadline will have the number of quarterly unreported claims records calculated, for purposes of civil penalty assessment, by dividing by four (4), the number of total discharges or admissions reported on Schedule D (Availability and Utilization of Services) of the most current final JAR of the ASTC or ODC on file with the Department for that facility.
- (3) An ASTC or ODC not submitting any claims data by the submission deadline will begin accruing penalties the day immediately following the submission deadline and ending the day when the actual claims data are received by the vendor or the maximum penalty is

(Rule 1200-7-4-.08, continued)

reached.

- (4) The Department will report the rate of error it identifies to the ASTC or ODC in writing. The acceptable error rate will be two percent (2%). Records that fall within the acceptable error rate will not be subject to penalties. ASTCs or ODCs that exceed the acceptable error rate will be penalized based on total errors.
- (5) An ASTC or ODC that does not timely submit corrected claims records will accrue delinquent penalties starting the sixteenth (16th) day after error notification and ending the day when the actual corrected claims data are received by the Department or the maximum penalty is reached.
- (6) Upon receipt of the notice of civil penalty assessment the ASTC or ODC has the right to an informal conference with the Commissioner or a formal hearing to contest the assessment.
 - (a) Informal conferences are governed by T.C.A. § 68-1-119(b) and (c).
 - (b) A request for a formal hearing must be made in writing and received by the Department within thirty (30) days of the receipt of the notice of assessment or, if an informal conference pursuant to subparagraph (a) was requested, within thirty (30) days of the receipt of the written disposition of the informal conference. Proceedings involving formal contests of civil penalties are subject to the contested case provisions of the Uniform Administrative Procedures Act.
 - (c) Civil penalties for any ASTC or ODC that continues to violate the law during the pendency of the informal conference will continue to accrue until either the violation ends or the maximum civil penalty is reached.
 - (d) Waiver of penalties is governed by T.C.A. § 68-1-119(c). However, the ASTC or ODC must make a request for the waiver in its request for an informal conference pursuant to subparagraph (a) or in its request for a formal hearing pursuant to subparagraph (b).
- (7) Unless a request for a formal hearing pursuant to subparagraph (6)(b) is timely received, the civil penalties become final and collectable either on the date that the time for requesting an informal conference has expired without a request being filed, or on the date on which the written final disposition of the informal conference is received.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.09 Data Availability

- (1) If the Commissioner determines that the quality or completeness of the information is not acceptable, he or she has the authority to delay release of any particular data element(s).
- (2) The Department may create reports for public release using any available processed and verified data. It may also provide custom reports, as requested by the public, using any available processed and verified data. Facility specific data reports will not be released to the public based on less than four (4) consecutive quarters of data.
- (3) The State, its agents and the vendors may receive reports of any record necessary, together with any needed patient identifiers, to carry out their contractual duties. This includes any organization contracted with to provide editing, quality control, database management services, or research for the State, or to provide keying of paper claims

(Rule 1200-7-4-.08, continued)

forms for the vendors. Any such contractual agent must agree in writing to establish and maintain appropriate controls to protect the confidentiality of the data and must agree to return or destroy any data or records at the termination of the contract.

- (4) The Department will make record level data files available for public release and purchase under the following conditions. The fee for a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The fee for a subset of a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The Department maintains a proprietary interest in all record level data it sells or distributes and such data are made available solely for use by the purchaser and may not be given or sold to another entity.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04- 10 Confidential Information

- (1) All information reported to the Commissioner under this part is confidential until processed and verified by the Department.
- (2) The Commissioner may use or authorize use of this data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law. In no event may personal identifiers be released to the public.
- (3) Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. A facility may receive information regarding the name of an employer for its claims only.
- (4) The data may be released pursuant to the provisions of 45 C.F. R. § 164.514 (b) or (e). However, any data released to the public, in addition to those items required by law to be deleted, will also not contain any of the following:
- (a) Any patient's address city;
 - (b) An insured's address city;
 - (c) The month and day of all dates;
 - (d) Any numbers after the first three numbers of all zip codes for areas having a population under 20,000;
 - (e) Any numbers after the first five numbers of all zip codes for areas having a population 20,000 or more;
 - (f) The year of birth and the actual age of any person over eighty nine (89) years of age; and
 - (g) Information that reasonably could be expected to reveal the identity of a patient, including those items contained in 45 C.F.R. § 164.514 (a) and (b)(2)(i).
- (5) Any agency of the State of Tennessee seeking confidential ASTC or ODC claims data or reports containing such confidential information, must agree in writing to follow all confidentiality restrictions of the Department concerning use of this data. The agency must also agree in writing to release no record level information to any other entity, and

(Rule 1200-7-4-.08, continued)

shall forward all such requests for record level information to the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

* 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)
N/A					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner of Health on 04/04/2012 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



MY COMMISSION EXPIRES:
May 5, 2015

Date: 4/4/2012

Signature: Mary Kennedy

Name of Officer: Mary Kennedy

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: 04/04/2012

Notary Public Signature: Barbara E. West

My commission expires on: 05/05/2015

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.

RE Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

1-22-13

Date

Department of State Use Only

Filed with the Department of State on: 1/29/13

Effective on: 6/30/13

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2012 JUN 29 PM 3:36
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Medical Examiners
Advisory Committee for Acupuncture

DIVISION:

SUBJECT: Licensure Fees

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 63-6-1004

EFFECTIVE DATES: April 22, 2013 through June 30, 2014

FISCAL IMPACT: The agency anticipates a decrease in revenues of approximately \$12,300. There are currently 123 licensed acupuncturists in Tennessee. The biennial fee reduction of \$100 multiplied by 123 equals \$12,300.

STAFF RULE ABSTRACT: This rule reduces the biennial renewal fee for acupuncturists from \$500 to \$400.

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 members of the public present and no written 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.

- (1) This rule does not overlap, duplicate, or conflict with any federal, state, or local governmental rules.
- (2) This rule exhibits clarity, conciseness, and a lack of ambiguity.
- (3) This rule does not have ongoing compliance or reporting requirements for small businesses.
- (4) This rule does not necessitate the establishment of performance standards for small businesses.
- (5) There are no unnecessary entry barriers or other effects in the proposed rule that would stifle entrepreneurial activity, curb innovation or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

- 1. Name of Board, Committee or Council:** Tennessee Board of Medical Examiners Advisory Committee on Acupuncturists
- 2. Rulemaking hearing date:** August 20, 2012
- 3. Types of small businesses that will be directly affected by the proposed rules:** Generally, the amendment does not affect small businesses. However, the amendment may affect small businesses that employ acupuncturists or that are run by acupuncturists.
- 4. Types of small businesses that will bear the cost of the proposed rules:** The proposed rules will not result in any costs to small businesses. The only cost of the proposed rules is the decreased revenue to the Advisory Committee on Acupuncturists. However, the Committee is able to absorb that cost.
- 5. Types of small businesses that will directly benefit from the proposed rules:** This rule change will decrease costs by one hundred dollars (\$100) for the following: 1) small businesses that employ acupuncturists and pay the biennial renewal fee on behalf of those particular employees and 2) acupuncturists who run small businesses in their area of practice.
- 6. Description of how small business will be adversely impacted by the proposed rules:** None
- 7. Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:** There are no less burdensome alternatives to the proposed rules.

Comparison of the proposed rule with federal or state counterparts:

Federal - None

State - None

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 impact local governments.

**Department of State
Division of Publications**

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Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 01-17-13
Rule ID(s): 5364
File Date: 1/22/13
Effective Date: 4/22/13

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:	Board of Medical Examiners Advisory Committee for Acupuncture
Division:	
Contact Person:	Alex Munderloh, Assistant General Counsel
Address:	220 Athens Way, Suite 210 Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-5575
Email:	alex.munderloh@tn.gov

Revision Type (check all that apply):

- 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
0880-12	General Rules and Regulations Governing the Practice of Acupuncturists
Rule Number	Rule Title
0880-12-.06	Fees

0880-12-.06 FEES. All fees provided for in this rule are non-refundable.

	Acupuncturist	Acupuncture Dextoxification Specialist
(1) Application fee to be submitted at the time of application.	\$500.00	\$ 75.00
(2) Initial certification fee to be submitted at the time of application.	\$250.00	\$ 25.00
(3) Biennial renewal fee to be submitted every two (2) years when certification renewal is due.	\$500.00	\$ 50.00
<u>(3) Biennial renewal fee to be submitted every two (2) years when certification renewal is due.</u>	<u>\$400.00</u>	<u>\$ 50.00</u>
(4) Late renewal fee.	\$100.00	\$ 50.00
(5) Certification reinstatement and / or restoration fee.	\$100.00	\$ 50.00
(6) Duplication of Certificate fee.	\$ 25.00	\$ 10.00
(7) Biennial state regulatory fee to be submitted at the time of application.	\$ 10.00	\$ 10.00
(8) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Advisory Committee for Acupuncture.		

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-6-101, 63-6-1004, 63-6-1005, and 63-6-1009. **Administrative History:** Original rule filed October 18, 2002; effective January 1, 2003. Amendment filed January 5, 2004; effective March 20, 2004.

0880-12-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.
- (2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Committee and Board designee who have both reviewed the completed application and determined that the applicant has met all the requirements for certification, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Committee or Board subsequently makes a good faith determination that the applicant has not met all the requirements for certification, renewal or reinstatement and therefore denies, limits, conditions or restricts certification, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation, conditioning or restricting of certification.

* 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)
Charmaine Jamieson	X				
Dr. Jane Abraham	X				
Jill L. Kelly	X				
Peggy Watson				X	
Serina M. Scott	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners Committee for Acupuncture on 08/20/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Zanolli, MD	X				
Subhi Ali, MD	X				
Dennis Higdon, MD	X				
Neal Beckford, MD	X				
Keith Lovelady, MD	X				
Clinton Allen Musil, MD	X				
Patricia Eller	X				
Barbara Outhier	X				
Jeff P. Lawrence, MD				X	
Nina Yeiser				X	
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners on 09/10/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/07/12

Rulemaking Hearing(s) Conducted on: (add more dates). 08/20/12

Date: 9-27-12

Signature: *Alex Munderloh*

Name of Officer: Alex Munderloh

Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 9/27/12

Notary Public Signature: *Theodora P. Wilkins*

My commission expires on: 11/3/15th

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.

REC Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
1-16-13
Date

Department of State Use Only

Filed with the Department of State on: 1/22/13

Effective on: 4/22/13

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Communication Disorders and Sciences

DIVISION: Council for Licensing Hearing Instrument Specialists

SUBJECT: Continuing Education Credit

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 63-17-105

EFFECTIVE DATES: April 29, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule provides that for new licensees as a hearing instrument specialist, submitting proof of successful completion of the written and practical examinations shall be considered proof of sufficient preparatory education to constitute continuing education credit for the first calendar year of licensure.

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 comments received or verbal comments at the rulemaking hearing.

Regulatory Flexibility Addendum

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

Regulatory Flexibility Analysis

- (1) The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The language of the proposed rule amendments is clear, concise, and lacks ambiguity.
- (3) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The proposed rules are not written with special consideration for flexible compliance and/or requirements. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The compliance and/or reporting requirements throughout the proposed rules are as "user-friendly" as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (5) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The compliance and/or reporting requirements throughout the proposed rules are as consolidated and/or simplified as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (6) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards, design standards, or operational standards for the affected persons.
- (7) The proposed rule amendments do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity.

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

The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices.

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

The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices.

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

The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices.

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

NA

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

The Board of Communication Disorders and Sciences does not believe there are less burdensome alternatives to the proposed rule amendments.

Comparison of the proposed rule with federal or state counterparts:

Federal: The Board of Communication Disorders and Sciences is not aware of any federal counterparts.

State: The Board of Communication Disorders and Sciences is not aware of any state counterparts.

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 rule amendments are not expected to have any impact on local government.

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For Department of State Use Only

Sequence Number: 01-19-13
 Rule ID(s): 5366
 File Date: 1/29/13
 Effective Date: 4/29/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Board of Communication Disorders and Sciences
Division:	Council for Licensing Hearing Instrument Specialists
Contact Person:	Alex Munderloh
Address:	Office of General Counsel 220 Athens Way, Suite 210 Nashville, Tennessee
Zip:	37243
Phone:	615-741-1611
Email:	Alex.Munderloh@tn.gov

Revision Type (check all that apply):

- 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
1370-02	General Rules Governing Hearing Instrument Specialists
Rule Number	Rule Title
1370-02-.12	Continuing Education, Calibration Certificates, and Bills of Sale

(Rule 1370-2-.11, continued)

expiration of one (1) year from the date of retirement, the Council will require payment of the late renewal fee, licensure renewal fees, and state regulatory fees as provided in rule 1370-2-.06; and

- (c) Comply with the continuing education provision of Rule 1370-2-.12 applicable to reactivation of retired license.
- (4) Upon receipt of the request, renewal application, fees, and continuing education documentation, the Council shall consider the renewal application.
- (5) License reactivation applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1370-2-.05, including payment of the application fee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-15-103, 63-15-113, 63-17-203, and 63-17-213. **Administrative History:** (For history prior to November, 1987 see page 1.) New rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-1-.11 filed December 28, 1999; effective March 12, 2000.

1370-2-.12 CONTINUING EDUCATION, CALIBRATION CERTIFICATES, AND BILLS OF SALE.

(1) Basic Requirements:

(a) Continuing Education

- 1. Each licensee registered with the Council is required to successfully complete twenty (20) hours of continuing education during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.
- 2. Two (2) hours of the twenty (20) hour requirement shall pertain to Tennessee statutes and rules concerning hearing instrument specialists.
- 3. For new licensees, submitting proof of successful completion of the written and practical skills examinations, pursuant to Rule 1370-02-.08, shall be considered proof of sufficient preparatory education to constitute continuing education credit for the first calendar year of licensure.

(b) Calibration Certificates - Each licensee registered with the Council is required to retain calibration of equipment certificates for each audiometer used at his/her place of business during the calendar year.

(c) Bills of Sale - Each licensee registered with the Council is required to retain copies of bills of sale for each hearing aid sold at his/her place of business during the calendar year.

(2) Documentation of Compliance:

(a) Each licensee must retain documentation of completion of all requirements of this rule. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Council during its verification process.

(b) Acceptable continuing education documentation:

- 1. Certificates or original letters from course providers verifying the licensee's attendance at continuing education program(s); or

(Rule 1370-2-.12, continued)

2. An original letter on official stationery from IHS verifying continuing education, specifying date, continuing education hours, program title, licensee's name, and license number.
 - (c) The individual must, within thirty (30) days of a request from the Council, provide documentation of successfully completing this rule's requirements.
- (3) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Council. Unless otherwise provided, all courses shall be offered within Tennessee.
- (a) Course approval procedures
 1. Pre-approved course providers - Continuing education courses which pertain to hearing instrument specialists shall be considered approved if provided or sanctioned by the following entities:
 - (i) International Hearing Society;
 - (ii) National Board for Certification-Hearing Instruments Specialists;
 - (iii) National Institute for Hearing Instruments Studies;
 - (iv) Any state professional association affiliated with the associations listed in subparts (i) through (iii);
 - (v) Any state regulatory agency for hearing instrument specialists in the United States.
 2. Course approval procedure for other course providers
 - (i) Unless pre-approved as provided in part (3) (a) 1., the course provider must have delivered to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, documentation which includes all of the following items which must be resubmitted if substantive changes are made after receipt of approval from the Council:
 - (I) course description or outline;
 - (II) names of all lecturers;
 - (III) brief resume of all lecturers;
 - (IV) number of hours of educational credit requested;
 - (V) date of course;
 - (VI) copies of materials to be utilized in the course; and
 - (VII) how verification of attendance is to be documented.
 - (ii) Notwithstanding the provisions of the introductory language of this paragraph, any clinic, workshop, seminar or lecture at national, regional, state and local meetings of hearing instrument specialists will be recognized for continuing education credit by the Council if

(Rule 1370-2-.12, continued)

- (I) the course provider has complied with the provisions of subpart (3) (a) 2. (i); or
 - (II) the course provider is exempt from needing prior approval as provided in part (3) (a) 1.
- (iii) Notwithstanding the provisions of the introductory language of this paragraph, out-of-state continuing education providers may seek course approval if they are a hearing instrument specialist regulatory agency or association from a state that borders Tennessee; and
- (I) the course provider has complied with the provisions of subpart (3) (a) 2. (i); or
 - (II) the course provider is exempt from needing prior approval as provided in part (3) (a) 1.
3. Course approval procedure for individual licensees
- (i) Any licensee may seek approval to receive credit for successfully completing continuing education courses by delivering to the Council's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Council that precedes the course, everything required in items (3) (a) 2. (i) (I) through (VII) which must be resubmitted if substantive changes are made after receipt of approval from the Council; and
 - (ii) To retain course approval, the licensee must submit a course evaluation form, supplied by the Council, to the Council's Administrative Office within thirty (30) days after successfully completing the course.
4. Course approval for attendance at Council meetings
- (i) Licensees may receive credit for one (1) hour of continuing education required in part (1) (a) 2. for each Council meeting that they attend in entirety.
 - (ii) Council members may receive credit for one (1) hour of continuing education required in part (1) (a) 2. for each Council meeting that they attend in entirety.
 - (iii) No more than two (2) hours of continuing education credit shall be awarded for attendance at Council meetings during any two (2) calendar year period.
- (b) Continuing education credit will not be allowed for the following:
- 1. Regular work activities, administrative staff meetings, case staffing/ reporting, etc.
 - 2. Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches, except as provided in part (3) (a) 4.
 - 3. Independent unstructured or self-structured learning.
 - 4. Training specifically related to policies and procedures of an agency.

(Rule 1370-2-.12, continued)

5. Non-hearing instrument specialist dispensing content courses in excess of four (4) hours - examples: computer, finance or business management.
 6. Courses provided by an individual hearing instrument manufacturer in excess of ten (10) hours during each renewal cycle.
- (c) Continuing education hours that are clearly not hearing instrument specialist related will be unacceptable.
- (4) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure.
- (a) Reactivation of a Retired License.
1. An individual whose license has been retired for two (2) years or less will be required to fulfill continuing education requirements as outlined in this Rule as a prerequisite to reactivation. Those hours will be considered replacement hours and cannot be counted during the next licensure renewal period.
 2. An individual who requests reactivation of a license which has been retired for more than two (2) years must submit, along with the reactivation request, verification which indicates the attendance and completion of twenty (20) hours of continuing education. The continuing education hours must have been started and successfully completed within the two (2) years immediately preceding the date of the requested reactivation.
- (b) Reactivation of Revoked Licensure.
1. No person whose license has been revoked for failure to comply with continuing education may have his/her license reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
 2. Notwithstanding the provisions of part (4) (b) 1., on written request and approval by the Council, a licensee has the option to take and pass the written and practical sections of the examination given by the Council in lieu of fulfilling the continuing education requirement. The current examination fee, pursuant to rule 1370-2-.06, will be applicable.
- (c) Reinstatement of Expired Licensure – No person whose license has expired may have his/her license reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reinstatement.
- (d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.
- (5) Violations
- (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(Rule 1370-2-.12, continued)

- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (5) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Council Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 3-17-203, and 63-17-214. **Administrative History:** Original rule filed December 2 1980; effective June 16, 1981. Repeal filed September 24, 1987; effective December 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-1-.12 filed December 28, 1999; effective March 12, 2000. Amendment filed October 28, 2002; effective January 11, 2003. Amendment filed October 12, 2004; effective December 26, 2004. Amendment filed October 31, 2005; effective January 14, 2006. Amendment filed July 10, 2006; effective September 23, 2006

1370-2-.13 UNETHICAL CONDUCT. The Council and the Board have the authority to deny, revoke or suspend for a period of time, or assess by monetary fine any person holding a license to practice as a hearing instrument specialist. "Unethical Conduct" shall include, but is not limited to, the following offenses:

- (1) Violation of laws regarding the fitting and dispensing of hearing instruments in any other state by a person licensed by this Council, while he is visiting or residing in such other state, shall be considered as unethical conduct by the Council.
- (2) A hearing aid product or instrument may be guaranteed against mechanical or electronic defects or poor workmanship, but the degree of help from the use of or the results obtained in the wearing of a hearing aid are dependent upon uncontrollable factors, including the proper use or operation of the device. Therefore, any guarantee, warranty or representation expressed or implied as to the degree or amount of help or improvement shall be considered deceptive or misleading.
- (3) Failure of a license holder to abide by the terms of any contract or agreement concerning the sale or dispensing of hearing instruments.
- (4) Engaging in unfair or deceptive acts specifically prohibited by T.C.A. §47-18-104(b) of the Tennessee Consumer Protection Act of 1977, while engaging in the business enterprise which is the practice of dispensing and fitting hearing instruments.
- (5) The obtaining of any fee or the making of any sale by fraud or misrepresentation.
- (6) Using, causing, or promoting the use of any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive or untruthful.
- (7) Advertising a particular model, type or kind of hearing aid for sale, when purchasers, responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised.
- (8) Representing that the services or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing instruments when it is

* 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)
Craig Haltom	X				
Cpt. Edward Alderman	X				
Dr. David Levy	X				
Dr. Frederick Rayne	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Council for Hearing Instrument Specialists on March 3, 2011, and is in compliance with the provisions of TCA 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Lynne Harmon Burgess	X				
Dr. Whitney Mauldin	X				
Dr. John Ashford	X				
Dr. Valeria Matlock				X	
Dr. Ron Eavey				X	
Terri Philpot Flynn	X				
O. H. Freeland				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Communication Disorders and Sciences on August 30, 2012, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/06/11

Rulemaking Hearing(s) Conducted on: (add more dates). 03/03/11

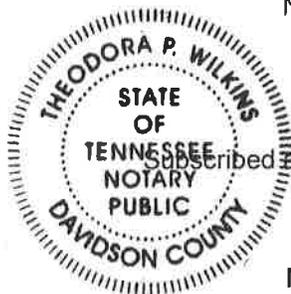
Date: 9-26-12

Signature: *Alex Munderloh*

Name of Officer: Alex Munderloh

Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 9/26/12

Notary Public Signature: *Theodora P. Wilkins*

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.
Robert E. Cooper, Jr.

1-22-13

Date

Department of State Use Only

Filed with the Department of State on:

1/29/13

Effective on:

4/29/13



Tre Hargett
Secretary of State

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SECRETARY OF STATE
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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Education

DIVISION:

SUBJECT: Special Education Early Intervention

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-1-302

EFFECTIVE DATES: June 30, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

The individuals with Disabilities Education Act (IDEA) was reauthorized on December 3, 2004 with an effective date of July 1, 2005. The United States Department of Education later released its final implementing regulations for IDEA Part C programs on September 28, 2011 with an effective date of October 28, 2011. The Tennessee Department of Education's Tennessee's Early Intervention System Interagency Coordinating Council convened a task force composed of parents of children with disabilities, representatives of service provider agencies, TEIS staff, and department staff to compare the current state rules and regulations 0520-1-10 with the changes to the reauthorized IDEA to ensure Tennessee Part C programs will be in compliance.

The task force recommends that the State Board of Education adopt by reference the Compilation of Federal Regulations at 34 C.F.R. Part 303 in their entirety as the state rule for administration of special education early intervention programs and services in the state. Further, the revised rule includes the state specific changes and additions that supplement the federal regulations. Many of the state specifications are to ensure that the rule is consistent with Tennessee laws.

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: 01-21-13
 Rule ID(s): 5368
 File Date: 11/30/13
 Effective Date: 6/30/13

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:	9 th Floor, 710 James Robertson Parkway, Andrew Johnson Tower, Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

Revision Type (check all that apply):

- 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
0520-01-10	Tennessee's Early Intervention System
Rule Number	Rule Title

Chapter Number	Chapter Title
Rule Number	Rule Title

Rules of the State Board of Education
Chapter 0520-1-10
Tennessee's Early Intervention System

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<u>0520-1-10-.03 Procedural Safeguards</u>	<u>0520-1-10-.08 TEIS Interagency Coordinating Council (ICC)</u>
<u>0520-1-10-.04 Resolution of Individual Child Complaints</u>	<u>0520-1-10-.09 Local Interagency Coordinating Council (LICCC)</u>
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<u>0520-1-10-.02 Definitions</u>	<u>0520-1-10-.05 Individualized Family Service Plan</u>
<u>0520-1-10-.03 Lead Agency</u>	<u>0520-1-10-.06 Procedural Safeguards</u>

0520-1-10-.01 General Regulations, Adoption By Reference

The State Board of Education adopts by reference the Compilation of Federal Regulations at 34 C.F.R. Part 303 in their entirety unless otherwise provided herein as the policies and procedures for administration of special education early intervention programs and services in the state. The regulations are available from Tennessee's Early Intervention System (TEIS), Tennessee Department of Education, 710 James Robertson Parkway, Nashville, TN 37243, or on the internet by accessing the state department of education's website at <http://tn.gov/education/teis>.

0520-1-10-.02 Definitions

(1) Developmental Delay for Infants and Toddlers

(a) General

Infants and toddlers with disabilities eligible for TEIS services shall be those children from birth to age three, inclusive, who:

1. Have been evaluated in accordance with appropriate procedures for early intervention services, and

2. As a result of the evaluation, a multidisciplinary team has determined that the child meets the criteria for Tennessee's definition of Developmental Delay.

(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:

I. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:

(i) Functioning at least twenty-five percent (25%) below his/her chronological age in two or more of the following developmental areas:

(I) Cognitive development;

(II) Physical development, including vision and hearing;

(III) Communication development;

(IV) Social/emotional development; and/or

(V) Adaptive development; or

(ii) Functioning at least forty percent (40%) below his/her chronological age in one of the developmental areas listed in subparagraph I(i)(I-V) above; or

(iii) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:

(I) Hearing loss that can be verified or estimated to be significant as indicated through an audiological evaluation;

(II) Visual loss, which can be verified or estimated to be significant, for example, cataracts, retinopathy of prematurity, or dysfunction of the visual cortex;

(III) Neurological, muscular, or orthopedic impairment which prevents the development of other skills, for example, spina bifida, cerebral palsy, autism, epilepsy;

(IV) Organic conditions or syndromes which have known significant consequences, for example, tuberous sclerosis, hydrocephalus, muscular dystrophy, fetal alcohol syndrome;

(V) Chromosomal, metabolic, or endocrine abnormalities, for example, Down Syndrome, Klinefelter Syndrome, Turner Syndrome, hypothyroidism; or

(VI) Prematurity, as defined by Tennessee's eligibility criteria for premature infants;

or

(iv) The child has been determined eligible based on informed clinical opinion because the use of standardized instruments does not accurately reflect the child's developmental status and the child does not have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(2) Developmental Therapy.

Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:

(a) Family training, counseling, and home visits, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development; and

(b) Special instruction including:

(i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the Individualized Family Service Plan (IFSP) for the infant or toddler with a disability;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the infant or toddler with a disability to enhance the child's development.

0520-1-10-03 Lead Agency.

(1) The Tennessee Department of Education is designated by the Governor as lead agency for TEIS and is responsible for the administration of the State's early intervention system.

(2) The Tennessee Department of Education, in accordance with Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. § 1431 (Part C), et. seq., and state interagency agreements, shall be responsible for:

(a) the general administration and supervision of programs that receive funding under IDEA Part C to provide services to eligible infants and toddlers and their families; and

(b) assigning financial responsibility among appropriate agencies for early intervention services.

(3) The Tennessee Department of Education shall be responsible for the supervision and monitoring of programs including:

(a) supervising and monitoring programs and activities that comprise the early intervention system, including agencies, institutions, and organizations which provide early intervention services to children eligible under Part C and their families, for compliance with IDEA Part C and the provisions of federal and state regulations, policies and procedures, whether or not the programs or activities receive financial assistance under Part C of IDEA;

(b) providing or facilitating the provision of technical assistance to those agencies, institutions, and organizations including self-evaluation, program planning and implementation;

(c) enforcing obligations imposed on those agencies, institutions and organizations as required under these regulations; and

(d) directing that deficiencies identified through monitoring be corrected.

(4) Each agency receiving assistance under IDEA Part C shall:

(a) submit financial and other written reports at the time and manner specified by TEIS, and

(b) participate in periodic on-site monitoring visits conducted by TEIS.

(5) The Tennessee Department of Education shall utilize funds provided under IDEA Part C that are reasonable and necessary for administering the state early intervention system.

- (6) TEIS shall ensure that traditionally underserved groups, including minority, low-income, and rural families are meaningfully involved in the planning and implementation of all components of the early intervention system and that these families have access to culturally competent services within their local geographical areas.
- (7) The lead agency shall utilize contractual arrangements as a method of securing required early intervention services for children and families. Each contractor will be required by the terms of its contract to adhere to all applicable state and federal requirements for the provision of services to Part C eligible children and their families.
- (a) All early intervention services provided for eligible children and their families shall meet the definition of early intervention services and shall be provided in a manner that is consistent with state and federal standards for services under IDEA Part C.
- (b) Procurement of early intervention services by service providers shall conform to the applicable agency procurement policies.
- (c) Individuals or organizations seeking to provide early intervention services shall meet the requirements and standards established by the lead agency.

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0520-1-10-.04 Data Collection and Records.

- (1) The Tennessee Department of Education shall maintain a data system that contains the early intervention records of infants and toddlers served by TEIS. The department shall maintain a process for collecting, managing, analyzing, and reporting statewide data regarding the operational status of TEIS.

0520-1-10-.05 Individualized Family Service Plan (IFSP)

(1) IFSP Meetings

- (a) The service coordinator shall communicate with the family and other IFSP team members in scheduling the IFSP meeting. Once scheduled, written notice of the meeting shall be provided to the family and other participants, no later than ten (10) days prior to the scheduled meeting date to ensure that they will be able to participate.
- (b) Participants' involvement in the IFSP meeting shall be reflected on the IFSP document by personal signature or by noting the method of participation.

0520-01-10-.06 Procedural Safeguards.

(1) Mediation.

- (a) Mediations shall be conducted by mediators employed by the secretary of state pursuant to Tenn. Code Ann. § 49-10-605.
- (b) TEIS shall provide an appropriate location for the mediation and shall be responsible for the administrative costs of the mediation.

(2) Due Process.

- (a) Due process cases shall be heard by administrative law judges employed by the secretary of state pursuant to Tenn. Code Ann. § 49-10-606.
- (b) Due process cases shall be conducted pursuant to 34 C.F.R. §§ 303.440 -- 449.
- (c) TEIS shall provide an appropriate location for the hearing, a court reporter, an original copy of the transcript for the administrative law judge, a copy of the transcript for the parents, and shall be responsible for the administrative costs of the hearing.
- (d) Any party aggrieved by the findings and decision of a due process hearing has the right to bring a civil action with respect to the complaint presented. The action may be brought in any state court of competent jurisdiction in accordance with Tenn. Code Ann. § 4-5-322 and Tenn. Code Ann. § 49-10-601 or in a district court of the United States without regard to the amount in controversy.

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Authority: T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act).

0520-1-10-.01-DEFINITIONS-

For the purpose of Tennessee's Early Intervention System (TEIS), the terms used in this part, unless specifically indicated by the context, shall be consistent with the definition specified in 0520-1-10-.01 of these Rules and defined as follows:-

- (1) "Advocacy" means influencing systems and decision-makers on behalf of individual children and families and participating in efforts to strengthen and improve services for all children.-
- (2) "Annual IFSP Meeting" means a meeting that shall be conducted at least annually to evaluate the Individualized Family Service Plan (IFSP) for a child and the child's family and to revise its provisions as appropriate.-
- (3) "Appropriate Professional Requirements" means entry-level requirements that are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing early intervention services and established suitable qualifications for personnel providing early intervention services pursuant to IDEA Part C to eligible children and their families who are served by State, local, or private agencies.-
- (4) "Assessment for IDEA Part C (TEIS)" purposes means the ongoing procedures used by qualified personnel throughout the period of a child's eligibility under IDEA Part C to identify:-
 - (a) The child's unique strengths and needs and the services appropriate to meet those needs;-
 - (b) The resources, priorities, and concerns of the family related to the development of the child;-
 - (c) The supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability; and-
 - (d) The current and potential activities, relationships, routines, and culture that constitute the child's natural environments.-
- (5) "Appropriately Trained and Supervised", as it applies to paraprofessional staff, means that the training, experience, and supervision of paraprofessional staff is consistent with the professional standards established by State requirements for their profession and TEIS criteria for the provision of early intervention services.-
- (6) "Child or Children Eligible for Early Intervention Services" means infants and toddlers, birth to age three, with developmental delays who meet the requirements for eligibility as determined by the State Department of Education and in accordance with federal statute.-
- (7) "Central Directory" means a system-wide directory of information about public and private early intervention services, resources, and experts available in the State; research and demonstration projects being conducted in the State; and professional and other groups that provide assistance to children eligible under IDEA Part C and their families.-
- (8) "Comprehensive Child-Find System" means the total system that is consistent with IDEA and TEIS Policies and Procedures. It is coordinated with all other major efforts conducted by all State Agencies responsible for administering the various education, health, and social service programs relevant to IDEA Part C to locate, evaluate, and identify children with disabilities. This includes children in traditionally underserved populations including, minority, low-income, children living in rural communities, and children living in urban communities and highly mobile children (e.g., migrant and homeless children) residing in Tennessee, and who are in need of early intervention services.- Child-Find includes the process developed and implemented to determine which children are receiving needed early intervention services.-
- (9) "Consent" means:-
 - (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;-
 - (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom or what agency;-

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~~(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. Revocation of consent must be in writing, and-~~

~~(d) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate any action that has occurred after the consent was given and before the consent was revoked). Revocation is not effective until received by the Incoming or Designated Service Coordinator to which the consent was granted.~~

~~(10) "Day," unless otherwise specified, means calendar day.~~

~~(11) "Department" means the Tennessee Department of Education.~~

~~(12) "Dispute resolution" means the procedures, as specified in the State's Interagency Agreement, which will be carried out to ensure timely resolution of intra-agency and interagency disputes.~~

~~(13) "Early Intervention Program Settings" are defined as follows:~~

~~(a) "Program designed for children with developmental delays or disabilities" means an organized early intervention center, classroom, or developmental child care program of at least one hour in duration provided on a regular basis. The program is usually directed toward the facilitation of several developmental areas.~~

~~(b) "Program designed for children who are typically developing" means services are provided in a regular nursery school/child care center or facility regularly attended by a group of children. Most of the children in these settings do not have disabilities.~~

~~(c) "Home" means services are provided in the principal residence of the child's family or care givers.~~

~~(d) "Hospital" means services are provided in a residential medical facility and the child is receiving early intervention services on an inpatient basis.~~

~~(e) "Service provider location" means services are provided at an office, clinic, or hospital where the infant or toddler comes for short periods of time (e.g., 45 minutes) to receive services. The service may be provided individually or to a small group of children.~~

~~(f) "Other" means any service setting not described by the settings or program listed above.~~

~~(14) "Early Intervention Record" means any personally identifiable information directly related to a IDEA Part C eligible child and the child's family that pertains to evaluation and assessment, the development of an IFSP, and/or the delivery of early intervention services.~~

~~(15) "Early Intervention Services (EIS)" means services that are-~~

~~(a) Designed to meet the developmental needs of each child eligible under IDEA Part C and the needs of the family related to enhancing the child's development;~~

~~(b) Selected in collaboration with the parents;~~

~~(c) Provided under public supervision by qualified personnel in conformity with an individualized family service plan;~~

~~(d) Provided at no cost to families unless federal or state law provides for a schedule of sliding fees; and~~

~~(e) Meet the standards of the State and IDEA Part C.~~

~~(16) "Early Intervention System (EIS)" refers to the Tennessee Early Intervention System (TEIS) and means the total effort in Tennessee that is directed at meeting the needs of infants and toddlers eligible under IDEA Part C and their families.~~

~~(17) "Evaluation for IDEA Part C (TEIS) purposes" means the procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility, consistent with the definition of "infants and toddlers with disabilities" including determining the status of the child in each of the following developmental areas: (1) cognitive development; (2) physical development, including vision and hearing; (3) communication development; (4) social or emotional development; and (5) adaptive skills.~~

~~(18) "Family Assessment" means an assessment that is family directed and designed to determine the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child.~~

~~(19) "Family Educational Rights and Privacy Act (FERPA)" means the collective name for federal legislation (20 USC § 1222e) prohibiting educational agencies or institutions from releasing education records of students unless consistent with terms of the Act.~~

~~(20) "Highest Requirement in the State" means the highest entry level academic degree needed for any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline.~~

~~(24) "Impartial" means that the person appointed to implement the complaint resolution process.~~

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~~(a) Is not an employee of any agency or program involved in the provision of early intervention services or care of the child, and~~

~~(b) Does not have a personal or professional interest that would conflict with the person's objectivity in implementing the complaint resolution process.~~

~~(22) "Incoming Service Coordinator" means the individual designated to assist the child and family from the time of the initial referral into the early intervention system through the initial IFSP process including the multidisciplinary evaluation and assessment and the development of the IFSP document.~~

~~(23) "Individualized Family Service Plan (IFSP)" means a written plan, developed in accordance with IDEA Part C, for providing early intervention and other services to an eligible child and the child's family.~~

~~(24) "Individuals with Disabilities Education Act (IDEA)" means the collective name for federal legislation codified at 20 USC §1400 et seq. as amended, providing federal funds for early intervention services and special education and related services to children with disabilities in accordance with standards set by the Act.~~

~~(25) "Infant or Toddler with a Disability" means an individual birth to age three who qualifies for early intervention services under IDEA Part C and State Department of Education criteria because the child:~~

~~(a) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development; physical development, including vision and hearing; communicative development; social or emotional development; adaptive development; or~~

~~(b) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; or~~

~~(c) Exhibits developmental delays for which there are no standardized measures or for which existing standardized procedures are not appropriate for the child's age or a given developmental area.~~

~~(26) "Informed Clinical Opinion" means:~~

~~(a) As a component of the multidisciplinary evaluation, informed clinical opinion means that the professional(s) have used qualitative and quantitative information to assess the child's development; or~~

~~(b) A set of procedures for determining eligibility when the use of standardized instruments or measures will not accurately reflect the child's developmental status.~~

~~(27) "Informed Consent" means the parent has been fully informed of all information relevant to the activity for which the consent is sought in the parent's native language or mode of communication; understands and agrees in writing to the carrying out of the activity for which the consent is sought and the consent describes the activity and lists the records (if any) that will be released and to whom; and understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.~~

~~(28) "Intra-agency dispute" means the inability of divisions, offices, bureaus, units or programs within a department or agency to agree as to which is responsible for coordinating services; providing appropriate services; paying for appropriate services; or any other matter related to the department's or agency's statutory responsibilities.~~

~~(Rule 0520-1-10-.01, continued)~~

~~(29) "Interagency dispute" means any disagreement between two or more agencies concerning the responsibility for coordination of services; provision of appropriate services; payment for appropriate services; or any other matter related to the early intervention system in Tennessee.~~

~~(30) "Interagency Coordinating Council (ICC)" means the Tennessee Interagency Coordinating Council under IDEA Part C.~~

~~(31) "Interim Individualized Family Service Plan (Interim IFSP)" means a temporary IFSP that is developed in accordance with IDEA Part C and TEIS Policies and Procedures to address an immediate need for services by an eligible infant or toddler when exceptional circumstances related to the child make it impossible to complete the evaluation within 15 days. The Interim IFSP ensures that the requirement for a timely evaluation and assessment are not circumvented.~~

~~(32) "Lead Agency" means the Department, designated by the Governor to administer the early intervention system in~~

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accordance with the requirements of IDEA Part C.

(34) "Lead Agency Designee" means the coordinator of the local TEIS district office, unless otherwise specified.

(35) "Local Interagency Coordinating Council (LICC)" means a group of individuals in each of the nine (9) geographic districts of Tennessee's Early Intervention System (TEIS) who meet on a periodic basis in accordance with these regulations and includes parents of children under the age of six (6) who have received, or are currently receiving, services through TEIS, professionals and other interested individuals to promote district-wide networking, problem solving and recommendations regarding service provision priorities and needs at the district and local level.

(35) "Multidisciplinary" means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and development of the IFSP.

(36) "Native Language" means:

(a) The language normally used by the individual, or, in case of a child, the language normally used by the parents of the child;

(b) In all direct contact with a child (including evaluation), the language normally used by the child in the home or learning environment; and

(c) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication that normally used by the individual (such as sign language, Braille, or oral communication).

(37) "Natural Environment" means settings that are natural or normal for the child and family, including home and community settings in which children without disabilities participate and that are considered natural or normal for the child's age peers who have no disability.

(38) "Paraprofessional" means an individual with at least a high school diploma or recognized equivalent that is employed in the provision of early intervention services under the supervision of a professional with appropriate credentials for their profession (licensed or certified according to Tennessee requirements) 20 USC § 1114g(3). A paraprofessional shall meet the professional and employment standards set by the State Board of Education pursuant to TCA § 49-10-110(g)(2) [Traineeships and Fellowships] and this rule.

TENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.01, continued)

(39) "Parent" means:

(a) A natural or adoptive parent of a child;

(b) A guardian, but not the State if the child is a ward of the State;

(c) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);

(d) A surrogate parent who has been appointed in accordance with 34 CFR § 303.406; or

(e) A foster parent may act as a parent if:

1. The natural parent's authority to make decisions on the child's behalf has been extinguished under Tennessee law; and

2. The foster parent:

(i) Has an ongoing, long-term parental relationship with the child of more than one

(1) year in duration;

(ii) Is willing to make the decisions required of parents under the IDEA; and

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(iii) Has no interest that would conflict with the interests of the child.

(40) ~~“Payor of Last Resort” means that funds provided under IDEA Part C may not be used to satisfy a financial commitment for a service for an eligible infant/toddler and/or their family that would have been paid for by any other public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of IDEA Part C. Funds under IDEA Part C shall only be used to provide an early intervention service to a child who is eligible under this part when the child and family is neither entitled, nor has access, to that service under any other federal, state, local, or private source.~~

(41) ~~“Periodic Review” means a review of the IFSP for a child and the child’s family to be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine the degree to which progress towards achieving the outcome is being made and whether modification or revision of the outcomes or services is necessary.~~

(42) ~~“Personally Identifiable Information” means the information that includes:~~

(a) ~~The name of the child, the child’s parent(s), or other family member(s);~~

(b) ~~The address of the child;~~

(c) ~~A personal identifier, such as the child’s or parent’s social security number, or~~

(d) ~~A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.~~

(43) ~~“Preschool age” means the age range of three (3) through five (5) years.~~

(44) ~~“Primary Referral Source” means hospitals (including prenatal and postnatal care facilities), physicians, parents, child care programs, local educational agencies, public health facilities, other social services agencies, other health care providers.~~

(45) ~~“Procedural Safeguards” means the processes established by federal and state regulations to ensure that the mandates of IDEA are properly carried out by the early intervention system.~~

(46) ~~“Profession or Discipline” means a specific occupational category that:~~

(a) ~~Provides early intervention services to children and their families under IDEA Part C;~~

(b) ~~Has been established or designated by the State; and~~

(c) ~~Has a required scope of responsibility and degree of supervision.~~

(47) ~~“Public Awareness Program” means the program that focuses on the early identification of children who are eligible to receive early intervention services and includes the preparation and dissemination of materials by the lead agency to all primary referral sources and parents on the availability of early intervention services. The program must inform the public about the early intervention system, the Child Find system, and the central directory.~~

(48) ~~“Qualified Personnel” means an individual who has met the State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.~~

(49) ~~“Referral” means the process that guides families toward and assists them in obtaining available resources and/or information regarding the early intervention system.~~

(50) ~~“Service Coordination” means the activities carried out by a service coordinator, in accordance with IDEA Part C and these Regulations to assist and enable a child eligible under IDEA Part C and the child’s family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State’s early intervention system.~~

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~~(51) "Service Coordinator" means the individual appointed by a public agency or selected by the IFSP team and designated in the IFSP to carry out service coordination activities.~~

~~(52) "Service Provider" means a public or private agency, or qualified person designated to provide early intervention services for an eligible child and the child's family, in accordance with an approved IFSP.~~

~~(53) "Single Point of Entry" means the State's toll-free number that links families and other referral sources to the network of local points of entry (TFES) offices.~~

~~(54) "State Approved or Recognized Certification, Licensing, Registration, or other Comparable Requirements" means the requirements that the State Legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the State.~~

~~(55) "Surrogate Parent", for TFES purposes, means an individual who has been assigned by the lead agency to act as a surrogate for the parent in order to ensure that the rights of a child eligible under IDEA Part C are protected.~~

~~(56) "Tennessee's Early Intervention System (TEIS)" means the name for the entity established by the Department (lead agency) to be responsible for the planning, implementation, supervision, monitoring, and technical assistance for the state-wide early intervention system for infants and toddlers with disabilities in accordance with IDEA Part C.~~

~~(57) "Transition" means the steps to be taken, in accordance with federal and state regulations for IDEA, to support the child's purposeful and organized move from:~~

~~(a) One program to another;~~

~~(b) The early intervention system to a preschool program; or~~

~~(c) School to post-school activities.~~

~~Authority: T.C.A. §§ 49-1-302, 49-10-601, and 49-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001.~~

~~0520-1-10-.02 PROGRAMS AND SERVICE COMPONENTS.~~

~~(1) Public Awareness Program.~~

~~(a) General.~~

~~1. The Department will maintain a broad, ongoing public awareness program using a variety of methods to inform the general public about the importance of early identification of infants and toddlers with disabilities and the availability of early intervention services. The target audience shall include, but is not limited to, individuals with disabilities, public agencies at the state and local level, private providers, professional associations, parent groups, advocacy associations,~~

~~(b) Procedures for implementing the public awareness program.~~

~~1. The lead agency will develop, prepare, and disseminate information and materials to all primary referral sources for informing parents of the availability of early intervention services.~~

~~2. Methods for informing the public and locating children and families will include:~~

~~(i) Maintaining a central directory that is updated on an annual basis;~~

~~(ii) Maintaining a toll-free access line that will link families and other concerned individuals to the local district offices of TEIS;~~

~~(iii) Participating in the development and implementation of a plan for effective outreach, which may include public service~~

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~~announcements, newspaper articles, posters, and other community information processes and reporting the results of those efforts to the ICC on an annual basis;~~

~~(iv) Maintaining a system for supplying and distributing public awareness materials, especially through the local TEIS offices; and~~

~~(v) Maintaining a web site which provides pertinent information regarding the early intervention system;~~

~~(c) The public awareness program shall inform the public about:~~

~~1. The State's early intervention system;~~

~~2. The Child Find system including:~~

~~(i) The purpose and scope of the system;~~

~~(ii) How to make referrals to the early intervention system;~~

~~(iii) How to gain access to a comprehensive, multidisciplinary evaluation, and other early intervention services; and~~

~~3. The central directory;~~

~~(2) Central Directory;~~

~~(a) General. The Department shall develop and maintain a central directory of information which identifies services, resources, experts, professionals and other groups that provide assistance to eligible children and their families;~~

~~It is developed in concert with families and community groups, including local interagency coordinating councils (LICC)s; It readily accessible to the general public; and Updated at least annually;~~

~~(b) The information in the central directory shall be in sufficient detail to:~~

~~Ensure that the general public will be able to determine the nature and scope of the services and assistance available from each of the sources listed in the directory; and~~

~~Enable the parent of an eligible infant or toddler to contact by telephone or letter any of the sources listed in the directory;~~

~~(3) Child Find;~~

~~(a) General;~~

~~The Department, with the advice and assistance of the State Interagency Coordinating Council, shall maintain a comprehensive Child Find system. This system shall be coordinated with all other major efforts conducted by State agencies responsible for administering the various education, health, and social service programs relevant to IDEA Part C to locate, identify, and evaluate children with developmental delay, including but not limited to the:~~

~~1. Assistance to the State Program authorized under IDEA Part B;~~

~~2. Maternal and Child Health Program under Title V of the Social Security Act;~~

~~3. TennCare's Early Periodic Screening, Diagnosis and Treatment (EPSDT) under Title XIX of the Social Security Act;~~

~~4. Developmental Disabilities Assistance and Bill of Rights Act;~~

~~5. Head Start; and~~

~~6. Supplemental Security Income Program under Title XVI of the Social Security Act;~~

~~(4) Referral;~~

~~(a) General;~~

~~The primary referral source shall refer the infant or toddler to TEIS within two (2) working days if he/she:~~

~~Suspects that an infant or toddler is experiencing developmental delays; or~~

~~Has identified or diagnosed a condition in the infant or toddler which is known to have a high probability of resulting in developmental delay;~~

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~~(b) The primary referral source shall refer the identified child to TEIS for a multidisciplinary evaluation to determine eligibility for service under IDEA Part C by:
Contacting the State's single point of entry via the TEIS 1-800 number;
Contacting the local TEIS point of entry directly; or
Contacting the Office of Early Childhood in the Division of Special Education of the Department.~~

~~(c) Upon receipt of the referral, the local point of entry (TEIS district office) shall:
Appoint a service coordinator as soon as possible;
Ensure that the initial attempt by the service coordinator to contact the family of the infant/toddler be made by phone or in-person within five (5) working days after receipt of the referral into the early intervention system. If attempts to contact the family by phone or in person have been unsuccessful within five (5) working days, a letter shall be sent to the family on the fifth day;
Ensure that attempts to contact the family are documented.~~

~~(5) Initial Contacts with Families.~~

~~(a) During the initial meeting with the family, the incoming service coordinator shall:
Explain the scope of early intervention services and potential benefits that are available to eligible children and their families under IDEA Part C;
Discuss the family's procedural safeguards under IDEA Part C and provide a copy to the family for their records;
Request parental consent, in writing, for the completion of multidisciplinary evaluation(s) and/or assessments; and
Coordinate the multidisciplinary evaluation and assessment activities prior to the initial IFSP meeting.~~

~~(b) If the parents or legal guardian refuses the referral to TEIS for the appointment of an incoming service coordinator, the public agency who has received the initial referral shall:
Obtain, in writing, the parent's refusal of the referral to TEIS; and
Document that the parents or legal guardian have been informed of their rights under IDEA Part C.~~

~~(c) If a family declines consent for referral to TEIS, but elects to pursue any early intervention service which must be supported through the lead agency, the agency or provider assisting that family shall:~~

~~1. Assume full responsibility to ensure that all of the provisions and components included in the rights of the child and family under IDEA Part C are provided, including:~~

~~(i) The assignment of a qualified service coordinator to assist and enable the child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State's early intervention system;~~

~~(ii) The completion of a multidisciplinary evaluation to determine eligibility; and~~

~~(iii) The development and implementation of the IFSP.~~

~~(iv) If the infant/toddler is determined to be ineligible for services under IDEA Part C, TEIS shall make a referral to other appropriate agencies or programs, with parental consent.~~

~~(6) Service Coordination.~~

~~(a) General.~~

~~Service coordination means the activities carried out by a service coordinator to assist and enable a child eligible under this part and the family to receive the rights, procedural safeguards, and services that are authorized to be provided under Tennessee's Early Intervention System (TEIS).~~

~~1. Each eligible child and the child's family must be provided with one service coordinator who is responsible for:~~

~~(i) Coordinating all services across agency lines; and~~

~~(ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.~~

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~~(b) Service coordination is an active, ongoing process that involves:~~

- ~~1. Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan;~~
- ~~2. Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic evaluation purposes) that the child needs or is being provided;~~
- ~~3. Facilitating the timely delivery of available services; and~~
- ~~4. Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.~~

~~(c) Specific service coordination activities include:~~

- ~~Coordinating the performance of evaluations and assessments;~~
- ~~Facilitating and participating in the development, review, and evaluation of individualized family service plans;~~
- ~~Assisting families in identifying the available service providers;~~
- ~~Coordinating and monitoring the delivery of available services including maintaining a complete and current record of pertinent information regarding the child's early intervention service delivery;~~
- ~~Informing families of the availability of advocacy services;~~
- ~~Coordinating with medical and health providers; and~~
- ~~Facilitating the development of a transition plan to preschool services, if appropriate.~~

~~(d) Assignment of service coordinators:~~

- ~~1. TEIS will provide incoming service coordination services to the child and family unless otherwise specified by the family.~~
- ~~2. If incoming service coordination services are provided by an agency other than TEIS, that agency will follow all procedural safeguards required by the State's early intervention system and IDEA Part C.~~
- ~~3. The designated service coordinator will be assigned at the IFSP meeting by the IFSP participants, including the family. The participants may:~~

~~(i) Assign the same service coordinator who was appointed at the time the child was initially referred for evaluation to be responsible for implementing a child's and family's IFSP; or~~

~~(ii) Appoint a new service coordinator.~~

~~(e) Qualifications of service coordinators:~~

- ~~1. Service coordinators must be persons who have demonstrated knowledge and understanding about:~~

~~(i) Infants and toddlers who are eligible under IDEA Part C;~~

~~(ii) IDEA Part C and the regulations in this Rule; and~~

~~(iii) The nature and scope of services available under Tennessee's Early Intervention System, the system of payments for services in Tennessee, and other pertinent information.~~

~~TEENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.02, continued)~~

~~(7) Definition of Developmental Delay for Infants and Toddlers:~~

~~(a) General:~~

~~Infants and toddlers with disabilities eligible for Tennessee's Early Intervention System shall be those children from birth to age three, inclusive, who:~~

~~Have been evaluated in accordance with appropriate procedures for early intervention services; and~~

~~As result of the evaluation, a multidisciplinary team has determined that the child meets the criteria for Tennessee's definition of Developmental Delay.~~

~~(b) Developmental Delay Criteria: The infant or toddler must meet one of the following:~~

- ~~1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by~~

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qualified professionals, indicating that the child is:

~~(i) Functioning at least 25% below his/her chronological age in two or more of the following developmental areas:~~

~~(I) Cognitive development;~~

~~(II) Physical development, including vision and hearing;~~

~~(III) Communication development;~~

~~(IV) Social/emotional development; and/or~~

~~(V) Adaptive development; or~~

~~(ii) Functioning at least 10% below his/her chronological age in one of the developmental areas listed in subparagraph (i)(1) above; or~~

~~(iii) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:~~

~~(I) Hearing loss that can be verified or estimated to be significant as indicated through an audiological evaluation;~~

~~(II) Visual loss, which can be verified or estimated to be significant, for example, cataracts, glaucoma, strabismus, albinism, myopia, retinopathy of prematurity, or dysfunction of the visual cortex;~~

~~(III) Neurological, muscular, or orthopedic impairment which prevents the development of other skills, for example, congenital dislocation of the hip, spina bifida, cerebral palsy, rheumatoid arthritis, autism, epilepsy;~~

~~(IV) Organic conditions or syndromes which have known significant consequences, for example, tuberous sclerosis, hydrocephalus, muscular dystrophy, fetal alcohol syndrome;~~

~~(V) Chromosomal, metabolic, or endocrine abnormalities, for example, Down Syndrome, Klinefelter Syndrome, Turner Syndrome, hypothyroidism; or~~

~~(VI) Prematurity, as defined by Tennessee's eligibility criteria for premature infants; or~~

~~(iv) The child has been determined eligible based on informed clinical opinion because the use of standardized instruments does not accurately reflect the child's developmental status and the child does not have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay;~~

~~(8) Eligibility Procedures-~~

~~(a) General. A multidisciplinary team, which includes the parent/caregiver of the infant or toddler, shall determine whether the infant or toddler has a disabling condition based on a review of the appropriate evaluation(s); and document the child's eligibility.~~

~~(b) A child who is determined not to be eligible for early intervention services shall be referred to community programs with parent consent, as appropriate.~~

~~(c) Infants and toddlers who are not eligible under IDEA Part C may be at risk of having substantial developmental delays because of well known biological and environmental factors that place infants and toddlers "at risk" for developmental delay. Infants and toddlers who are considered to be "at risk" for but are not experiencing developmental delays consistent with the criteria for Tennessee's definition of Developmental Delay are not eligible for early intervention services under IDEA Part C through Tennessee's Early Intervention System.~~

~~(9) Evaluation and Assessments-~~

~~(a) General-~~

~~The Lead Agency recognizes the central role of the family, respects the expertise of parents, and supports a balanced partnership between parents and professional members in the evaluation and assessment process. Therefore, prior to the~~

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~~evaluation or assessment, parents must be fully informed about the purpose, content, and process and be full participants in determining the following:~~

~~The extent of the role that they (the family) will play in the process;~~

~~The disciplines or persons to be involved in conducting evaluations and assessments;~~

~~The measures to be used;~~

~~When and how the information obtained will be synthesized and shared; and~~

~~Who will have access to the information obtained.~~

~~(b) Evaluation.~~

~~1. A multidisciplinary evaluation shall be conducted in order to determine a child's initial and continuing eligibility consistent with Tennessee's definition of "infants and toddlers with disabilities," including determining the status of the child in each of the developmental domains. Eligibility under IDEA Part C must be determined before a child can receive early intervention services.~~

~~2. The eligibility evaluation must be multidisciplinary and shall:~~

~~(i) Be conducted and interpreted by qualified personnel trained to utilize appropriate methods and procedures in the evaluation of infants and toddlers in accordance with the specifications of Policies and Procedures for TEIS, as well as clinical judgment;~~

~~(ii) Include the following:~~

~~(I) A review of pertinent records related to the child's current health status and medical history;~~

~~(II) An evaluation of the child's level of functioning in each of the following developmental areas:~~

~~I. Cognitive development;~~

~~II. Physical development, including vision and hearing;~~

~~III. Communication development;~~

~~Social or emotional development; and~~

~~Adaptive development; and~~

~~(III) A determination of the unique needs of the child in terms of each developmental area, including the identification of types of services appropriate to meet those needs;~~

~~(iii) Include a minimum of two (2) disciplines, which are selected based on the individual needs of the child;~~

~~(iv) No single procedure shall be used as the sole criterion for determining a child's eligibility for early intervention services under IDEA Part C.~~

~~(v) At least one of the professionals involved in conducting the evaluation shall be from the discipline of early childhood development and must:~~

~~(I) Meet the Tennessee Professional Standards for Early Childhood Education and/or Early Childhood Special Education; or~~

~~(II) Have verification of formal training and experience in the field of early childhood development and/or early intervention; and~~

~~(III) Have experience in conducting developmental evaluations of young children.~~

~~(vi) Other professionals involved in conducting the evaluation for eligibility may include one or more of the following:~~

~~(1) Audiologist;~~

~~(II) Child development specialist;~~

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- ~~(III) Child psychologist;~~
- ~~(IV) Child life specialist;~~
- ~~(V) Counselor;~~
- ~~(VI) Developmental pediatrician;~~
- ~~(VII) Family therapist;~~
- ~~(VIII) Neurologist;~~
- ~~(IX) Occupational therapist;~~
- ~~(X) Ophthalmologist;~~
- ~~(XI) Pediatric nurse/nurse practitioner;~~
- ~~(XII) Pediatric resident;~~
- ~~(XIII) Pediatrician;~~
- ~~(XIV) Physical therapist;~~
- ~~(XV) Physician: family practice/specialty/resident;~~
- ~~(XVI) Psychologist;~~
- ~~(XVII) Social worker; and~~
- ~~(XVIII) Speech and language pathologist;~~
- ~~(vii) Other components that shall be incorporated, as appropriate, in the multidisciplinary evaluation include:~~
 - ~~(I) Informed clinical opinion, as defined in this rule;~~
 - ~~(II) Family/caregiver involvement to the extent preferred by the family/caregiver;~~
 - ~~(III) The family's culture and language, to the greatest extent possible (if English is not the family's native language, interpreters shall be provided, when necessary, to ensure the family's ability to fully participate as a team member); and~~
 - ~~(IV) To the greatest extent appropriate, the evaluation must be conducted in the setting(s) that has been determined to be natural for the child and family;~~
- ~~(e) Coordination responsibilities regarding evaluations:~~
 - ~~1. The incoming service coordinator responsible for oversight of the evaluation to determine eligibility shall ensure, at a minimum that:~~
 - ~~(i) As appropriate, test and other evaluation materials and procedures are administered in the native language of the parents or other mode of communication, unless it is clearly not feasible to do so;~~
 - ~~(ii) Any evaluation procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory;~~
 - ~~(iii) No single procedure is used as the sole criterion for determining a child's eligibility;~~
 - ~~(iv) Evaluation procedures are conducted by qualified personnel, meaning that the individual has met State approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the person is providing early intervention services;~~
 - ~~(v) Parent/legal guardian has given consent, in writing, prior to conducting the initial evaluation;~~
 - ~~(vi) The parent is fully informed of all information regarding the multidisciplinary evaluation process and that reasonable efforts have been made to:~~

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~~(I) Ensure that the parent/caregiver is fully aware of the nature of the evaluation that would be available; and~~

~~(II) Understands that the child will not be able to receive the evaluation unless consent is given.~~

~~(d) Pertinent Timelines:~~

~~1. The initial evaluation to determine eligibility and the development of the initial IFSP shall be completed within 45 days of the date of the child's initial referral into the early intervention system.~~

~~2. In the event of exceptional child or family circumstances that make it impossible to complete the initial evaluation within 45 days (e.g., the child has an extended illness requiring hospitalization), the incoming service coordinator shall:~~

~~(i) Document those circumstances; and~~

~~(ii) Develop and implement an interim IFSP to the extent appropriate.~~

~~(iii) The child's period of eligibility for services begins when documentation of the child's eligibility is completed by the incoming service coordinator and the multidisciplinary team.~~

~~3. Re-evaluations:~~

~~(i) Re-evaluation to determine a child's continuing eligibility shall be completed when any participant of the child's Individualized Family Service Plan (IFSP) team suspects that the child may no longer meet the eligibility requirements for the State's Early Intervention System. The need for re-evaluation shall be considered when:~~

~~(I) Substantial progress in development is indicated by on-going assessments; or~~

~~(II) Changes in the child's diagnosed physical or mental condition are such that the child's current condition or status is no longer considered to have a high probability of resulting in developmental delay.~~

~~(ii) Re-evaluation procedures and criteria for determining continuing eligibility are consistent with those specified for evaluations to determine initial eligibility.~~

~~(e) Family Assessments:~~

~~1. Family assessments must be family directed and designed to determine:~~

~~(i) The resources, priorities, and concerns of the family; and~~

~~(ii) The identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child.~~

~~2. Any family assessment that is conducted must be voluntary on the part of the family, and eligibility for early intervention services shall not be denied a child and family when the parent/guardian declines to participate in family assessment activities.~~

~~3. If an assessment of the family is carried out, the assessment must:~~

~~(i) Be conducted by personnel trained to utilize appropriate methods and procedures;~~

~~(ii) Be based on information provided by the family through a personal interview;~~

~~(iii) Incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development; and~~

~~(iv) Include a discussion of confidentiality regarding the information to be shared at the IFSP meeting.~~

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~~4. The initial family assessment must be completed within forty-five (45) days of referral into the early intervention system prior to the initial IFSP meeting.~~

~~(f) Child Assessment.~~

~~1. Ongoing assessment activities are conducted throughout the child's period of eligibility to monitor the child's present levels of development and to identify the child's unique strengths and needs and the services and activities required to emphasize strengths and to meet identified needs. The assessment for each child must:~~

~~(i) Be conducted and interpreted by qualified personnel trained to utilize appropriate methods and procedures and include the following:~~

~~(I) A review of pertinent records related to the child's current health status and medical history;~~

~~(II) A review of current information regarding of the child's present level of functioning in each of the developmental areas identified in the State's definition of Developmental Delay;~~

~~(III) An assessment of the unique strengths and needs of the child in terms of each developmental area, including the identification of services appropriate to meet those needs, and~~

~~(IV) Synthesis and utilization of information from a variety of assessment methods to determine services needed for the child and family;~~

~~(ii) Be based on informed clinical opinion;~~

~~(iii) Include parent involvement to the extent indicated by the parent(s), and the service coordinator, early interventionist, and other professionals involved in the child's intervention program;~~

~~(iv) Incorporate the family's culture and language needs to the greatest extent possible; and~~

~~(v) Includes the availability of interpreters, when needed, to ensure full family participation, for families who have limited English proficiency and for families using other forms of communication, for example, sign language.~~

~~To the greatest extent appropriate, the assessment must be conducted in the setting(s) that has been determined to be natural for the child and family.~~

~~Assessments shall be completed at no less than six (6) month intervals and the information shall be compiled in a timely manner prior to each scheduled six-month review and annual IFSP to ensure that current information is available for consideration by the IFSP team.~~

~~(i) Coordination responsibilities regarding assessments.~~

~~(I) The service coordinator and other persons responsible for assessments activities shall ensure, at a minimum, that:~~

~~I. Assessment materials and procedures are administered in the native language of the parents or other mode of communication, unless it is clearly not feasible to do so;~~

~~II. Any assessment procedures and material that are used are selected and administered so as not to be racially or culturally discriminatory;~~

~~III. The person conducting assessments has met state approved or recognized requirements that apply to the area in which the person is providing early intervention assessment services; and~~

~~IV. The parent/guardian is fully informed regarding the assessment process and has consented in writing to the proposed action.~~

~~TENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.02, continued)~~

~~(10) Individualized Family Service Plan (IFSP).~~

~~(a) General.~~

~~An Individualized Family Service Plan (IFSP) shall be developed and implemented for each infant or toddler birth to age three who is determined eligible for services under IDEA Part C and Tennessee's Early Intervention System. The IFSP shall:~~

~~Be developed in partnership with the family;~~

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~~Identify the natural supports of the family and incorporate those natural supports into the specific strategies contained in the IFSP;
Incorporate and be based on information gained through evaluation and assessments;
Be developed in accordance with state and federal regulations; and
Be consistent with all specifications outlined in this Rule.~~

~~(b) Family involvement in IFSP development and implementation.~~

~~The family of the eligible child shall participate in all phases of the IFSP process and documentation to the degree they determine appropriate.~~

~~The degree to which the family's needs will be addressed in the IFSP is determined in a collaborative manner with the full participation of the parent/caregiver of the child.~~

~~Parents shall retain the ultimate decision in determining whether they, their child, or family members will participate in early intervention services recommended by the IFSP team. The family's decision to decline any service, or services, shall not impede their ability to participate in any other recommended service(s).~~

~~(c) IFSP meetings.~~

~~1. The individuals who have been identified to serve as members of the IFSP team for a IDEA Part C eligible infant or toddler shall participate in a meeting to develop the initial Individualized Family Service Plan (IFSP) within forty-five (45) days after the child's referral into the State's early intervention system.~~

~~2. IFSP meetings shall be conducted:~~

~~(i) In settings and at times that are convenient to families; and~~

~~(ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.~~

~~3. Each initial and annual meeting to develop or evaluate the IFSP shall include representatives of at least two disciplines related to the individual needs of the child and family. The IFSP team must include, at a minimum, the following participants:~~

~~(i) The parent(s)/caregivers of the infant or toddler;~~

~~(ii) The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for the implementation of the IFSP; and~~

~~(iii) Person or person(s) directly involved in conducting the evaluation and assessments. If the evaluator is unable to attend the meeting, arrangements must be made for the person's involvement through other means, including:~~

~~(I) Participating in a conference call;~~

~~(II) Having a knowledgeable authorized representative attend the meeting; or~~

~~(III) Making pertinent records available at the meeting.~~

~~(iv) Other individuals, as indicated by specific issues or family preference, may attend the meeting and include, but are not limited to:~~

~~(1) Other family members as requested by the parent, if it is feasible to do so;~~

~~(II) A TEIS representative (may be the same as the incoming service coordinator);~~

~~(III) An advocate or person outside the family, if the parent requests that the person participate; and~~

~~(IV) As appropriate, persons who may be providing services to the child or family.~~

~~4. The designated service coordinator shall communicate with the family and other IFSP team members in making arrangements for the IFSP meeting. Once established, written notice of the meeting shall be provided to the family and other~~

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~~participants, no later than ten (10) days prior to the scheduled meeting date to ensure that they will be able to participate.~~

~~§. Participant involvement in the IFSP meeting shall be reflected on the IFSP document by personal signature or by noting the method of participation.~~

~~(d) Content of the Individualized Family Service Plan:~~

~~1. Each individualized Family Service Plan shall include the following information:~~

~~(i) A statement (based on professionally acceptable objective criteria) of the child's present levels of development in each of the following areas:~~

~~(I) Physical development (including vision, hearing, and health status);~~

~~(II) Cognitive development;~~

~~(III) Communication development;~~

~~(IV) Social or emotional development; and~~

~~(V) Adaptive development;~~

~~(ii) With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child;~~

~~(iii) A statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timelines used to determine:~~

~~(I) The degree to which progress toward achieving the outcomes is being made; and~~

~~(II) Whether modifications or revisions of the outcomes or services are necessary;~~

~~(iv) A statement describing the actions that are needed to achieve the outcomes, including steps and strategies, and identifying the individuals or agencies responsible for ensuring the implementation of those actions;~~

~~(v) A statement of the specific early intervention services necessary to meet the unique needs of the child and family to achieve the outcomes identified in the IFSP, including:~~

~~(I) The frequency (the number of days or sessions that a service will be provided);~~

~~(II) The dates for initiation of services (as soon as possible after the IFSP meeting) and the anticipated duration of those services;~~

~~(III) The intensity (the length of time the service will be provided during each session, and whether the service is provided on an individual or group basis);~~

~~(IV) The method (how a service is provided e.g., individual, group, consultation) of delivering the services;~~

~~(V) The location of the services (the actual place or places where a service(s) will be provided as determined in the IFSP or the Interim IFSP);~~

~~(VI) The natural environments in which the early intervention services will be provided or a justification of the extent, if any, to which the services will not be provided in the natural environment;~~

~~(VII) The payment arrangement for the service, if any;~~

~~(VIII) The steps to be taken, beginning at no later than age two (2), in order to support the transition of the infant or toddler~~

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from IDEA Part C services to:

1. Preschool services under IDEA Part B, in accordance with the procedures identified by State and Federal regulations to the extent that those services are considered appropriate; or

2. Other services that may be available, if appropriate:

(v) The name of the service coordinator from the profession most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities), who will be responsible for the implementation of:

(Rule 0520-1-10-.02-continued)

the IFSP and coordination with other agencies and persons to ensure the provision of early intervention services. To meet the requirements for service coordinator selection, the public agency may:

(1) Assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation to be responsible for implementing a child's and family's IFSP; or

(2) Appoint a new service coordinator:

(vi) To the extent appropriate, the IFSP shall include:

(1) Other needs of the child and family related to enhancing the development of the child, such as medical and health needs, which are considered and addressed, including determining:

1. Who will provide each service and when, where, and how it will be provided; and

2. The funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources (e.g., through private insurance, an existing federal, state funding source, such as TennCare or EPSDT, or some other funding arrangement). This does not apply to routine medical services (e.g., immunizations and "well-baby" care) unless a child needs those services and the services are not otherwise available or being provided.

(vii) The "other services" are services that may be needed by a family but are not required or covered under IDEA Part C. Their identification in the IFSP does not mean that those services must be provided by the State's early intervention system.

(viii) The contents of the IFSP must be fully explained to the parents and informed written consent shall be obtained from the parents prior to the provision of early intervention services described in the IFSP. If the parents decline consent for any particular early intervention service, or withdraw consent after first providing it initially, that service may not be provided. The early intervention services for which parental consent is given must be provided.

2. Periodic Review of the IFSP:

(i) A review of the IFSP for a child and the child's family must be conducted at least every six (6) months or more frequently if conditions warrant, or if the family requests such a review.

(ii) The purpose of the periodic review is to determine:

(1) The degree to which progress toward achieving the outcomes is being made; and

(2) Whether modification or revision of the outcomes or services is necessary.

(iii) The review may be carried out by a meeting or by other means acceptable to the parents and other participants.

(iv) Each periodic review must provide for the participation of those persons who participated in the most current IFSP and, if conditions warrant, the participation of others who are involved in the child's early intervention services and/or other persons identified by the parents.

(v) The periodic review will include written documentation of the progress toward achieving the outcome.

3. Annual Review of the IFSP:

(i) A meeting must be conducted on at least an annual basis or more frequently at the parent's request to review and revise the IFSP for a child and the child's family and, as appropriate, to revise its provisions.

(ii) The results of any recent evaluations and other information available from the ongoing assessments of the child and

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family must be considered in:

~~(i) Evaluating the impact of the IFSP and the degree of the child's progress toward achieving the identified outcomes;~~

~~(ii) Evaluating the effectiveness and continuing appropriateness of the services being provided; and~~

~~(iii) Determining the extent, if any, that modifications or additions are needed;~~

~~(iii) If the annual IFSP is delayed, the reasons for the delay shall be documented in the IFSP Conference notes;~~

~~(iv) Beginning no later than age two (2) or immediately, if the child is referred to the system after the age of two (2), the annual reviews of the IFSP shall include continuous review and updating of the transition plan. This shall include, but is not limited to, planning for activities such as:~~

~~(1) Discussions with, and training of, parents regarding future placements and other matters, related to the child and family's transition;~~

~~(2) Discussion with parents/guardians regarding IDEA Part B procedures;~~

~~(iii) Developing procedures to prepare the child and changes in service delivery, including steps to help the child adjust to and function in a new setting; and~~

~~(iv) With parental consent, preparation for the transmission of information about the child to the local educational agency, to ensure continuity of services, including evaluation and assessment information and copies of IFSPs that have been developed and implemented;~~

~~(v) The annual IFSP shall reflect current ongoing assessments that have occurred within the last six (6) months prior to the review;~~

~~(c) Interim IFSP.~~

~~1. In the event that exceptional child or family circumstances make it impossible to complete the evaluation and assessment within forty-five (45) days of the child's referral into the early intervention system (e.g., the child is ill), the public agency shall:~~

~~(i) Document those circumstances; and~~

~~(ii) Develop and implement an interim IFSP for the child and/or family for a period not to exceed more than ninety (90) days. After ninety (90) days, an initial IFSP is developed;~~

~~2. If the exceptional circumstances continue past ninety (90) days, document the circumstances; and~~

~~3. Review and modify, if necessary, the interim IFSP;~~

~~4. Early intervention services for an eligible child and the child's family may begin before the completion of the evaluation and assessments if the following conditions are met:~~

~~(i) Parental consent is obtained;~~

~~(ii) An interim IFSP is developed that includes:~~

~~(1) The name of the service coordinator who will be responsible for the implementation of the interim IFSP; and~~

~~(2) Coordination with other agencies and persons; and~~

~~(iii) The early intervention services that have been determined to be needed immediately by the child and the child's family;~~

~~(iii) The evaluation and assessment are completed within the forty-five (45) day after a child is referred into the early intervention system;~~

~~(iv) The development of an interim IFSP does not circumvent the requirement that evaluations and assessments be~~

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completed within the forty-five (45) days after the child is referred into the early intervention system.
111 Early Intervention Services.

(a) General.

Quality early intervention service provision is the result of a process that is based in the routines that are natural to the lifestyle of the individual family and child. This process results in the development of strategies to enhance learning environments. Therefore, the discussion of natural environments is not only about locations where services are provided, but also about a process, which identifies when and where in a family's normal routines interventions will be most effective.

(b) Early intervention services are selected in collaboration with parents, provided under public supervision by qualified personnel in conformity with an IFSP that meets the State standards established under this rule. They are provided at no cost to parents unless the State has an established schedule of sliding fees including policies which specify what services will be provided at no cost and what services are subject to a system of payments. Fees will not be charged for the services that a child is otherwise entitled to receive at no cost to parents under:

(Rule 0520-1-10-.02, continued)

HDLA Part C. To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments including home and community settings in which children without disabilities participate and in environments which are considered natural or normal for the child's age peers who have no disability.

1. Individuals or agencies designated as responsible parties for implementing the action steps documented in the IFSP shall maintain a system that describes the method(s) utilized to show how progress toward achieving the IFSP outcomes will be determined including:

(i) The methods and/or procedures utilized in monitoring the implementation of the action and its impact on the child's or family's progress toward achieving the outcomes.

(ii) The frequency with which progress is monitored and

(iii) The person(s) responsible for documenting the child's or family's progress and reporting on that progress to the IFSP team for periodic reviews (at a minimum, the six (6) month review, and the annual IFSP).

(c) Early intervention services necessary to meet the unique needs of the child and the child's family shall be determined by the IFSP team and documented on the IFSP and may include, but not be limited to:

1. Assistive technology devices and services including:

(i) A device, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of the eligible infant or toddler.

(ii) A service that directly assists an eligible child in the selection, acquisition, or use of an assistive technology device.

(iii) The evaluation of the needs of an eligible infant or toddler including a functional evaluation of the child's customary environment.

(iv) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by eligible infants and toddlers.

(v) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices.

(vi) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with the existing early intervention plans and programs.

(vii) Training or technical assistance for an infant or toddler with disabilities or, if appropriate, the family of the infant or toddler, and

(viii) Training or technical assistance for the professional (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of the eligible infant or toddler.

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2. ~~Audiology which includes:-~~

- ~~(i) Identification of children with auditory impairments, using at-risk criteria and appropriate audiology screening techniques;~~
- ~~(ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;~~
- ~~(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairments;~~
- ~~(iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;~~
- ~~(v) Provision of services for prevention of hearing loss; and~~
- ~~(vi) Determination of the child's need for individual amplification, including selecting, fitting and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices;~~

2. ~~Service coordination which includes assistance and services provided by a service coordinator to an eligible child and the child's family that are in addition to the functions and activities included under 0520-1-10-.02(6);~~

4. ~~Family training, counseling, home visits, parent to parent interaction and support groups which include services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an eligible child in understanding the special needs of their child and enhancing the child's development;~~

5. ~~Health services which include services necessary to enable a child to benefit from other early intervention services during the time that the child is receiving other early intervention services. Health services include:-~~

- ~~(i) Clean intermittent catheterization;~~
- ~~(ii) Tracheostomy care;~~
- ~~(iii) Tube feeding;~~
- ~~(iv) The changing of dressings or ostomy collection bags;~~
- ~~(v) Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services;~~

~~(1) Health services do not include services that are:-~~

- ~~I- Surgical in nature such as cleft palate surgery, surgery for clubfoot, or the shunting of hydrocephalus;~~
- ~~II- Purely medical in nature such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose, or devices necessary to control or treat a medical condition; or~~
- ~~III- Medical health services such as immunizations and regular "wellbaby" care that are routinely recommended for all children;~~

~~6- Medical services only for diagnostic or evaluation purposes which include services provided by a licensed physician to determine a child's developmental status and/or diagnosis indicating the need for early intervention services;~~

7. ~~Nursing services which include:-~~

- ~~(i) The assessment of health status for the purpose of providing nursing care including the identification of patterns of human response to actual or potential health problems;~~
- ~~(ii) Provision of nursing care to prevent health problems, restore or improve functioning;~~
- ~~(iii) Promotion of optimal health and development; and~~

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(iv) Administration of medications, treatments, and regimens prescribed by a licensed physician;

8. Nutrition services which include:

(i) Conducting individual assessments in:

(I) Nutritional history and dietary intake;

(II) Anthropometric, biochemical, and clinical variables;

(III) Feeding skills and feeding problems; and

(IV) Food habits and food preferences;

(ii) Developing and monitoring appropriate plans to address the nutritional needs of eligible children based on assessments/evaluations; and

(iii) Making referrals to appropriate community resources to carry out nutrition goals.

9. Occupational therapy which includes services to address the functional needs of a child related to the performance of adaptive skills, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

(i) Identification, assessment, and intervention;

(ii) Adaptation of the environment and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

10. Physical therapy which includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

(i) Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent or alleviate movement dysfunction and related functional problems; and

(iii) Providing services to prevent or alleviate movement dysfunction and related functional problems.

11. Psychological services which include:

(i) Administering psychological and developmental tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

12. Social work services which include:

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

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~~(ii) Preparing an assessment of the child within the family context;~~

~~(iii) Providing individual and family group counseling with parents and other family members, and appropriate social skill building activities with the child and parents;~~

~~(iv) Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and~~

~~(v) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.~~

~~12. Special instruction which includes:~~

~~(i) The design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;~~

~~(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's IFSP;~~

~~(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and~~

~~(iv) Working with the child to enhance the child's development.~~

~~14. Speech language pathology which includes:~~

~~(i) Identification of children with communicative or oral-pharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;~~

~~(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oral-pharyngeal disorders and delays in development of communication skills; and~~

~~(iii) Provision of services for habilitation, rehabilitation, or prevention of communicative or oral-pharyngeal disorders and delays in development of communication skills.~~

~~15. Transportation which includes the cost of travel such as mileage, or travel by taxi, common carrier, or other means and related costs (e.g., parking expenses) that are necessary to enable an eligible child and the child's family to receive early intervention services.~~

~~16. Vision services which include:~~

~~(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;~~

~~(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and~~

~~(iii) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual-motor abilities.~~

~~(d) Payment for Services. The lead agency shall establish a system of payments for early intervention services. The system of payment shall include:~~

~~Existing sliding fee scales used by state agencies;~~

~~Other sliding fee scales in place within the agencies; and~~

~~Other third-party payments as appropriate.~~

~~(e) Early Intervention services will be provided at no cost to families unless Federal or State law provides for a system of payments by families, including a schedule of sliding fees. Fees may not be charged for services that an infant or toddler is otherwise entitled to receive at no cost to parents. The following functions shall not be subject to fees:~~

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~~TENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.02, continued)~~

~~1. Implementing the Child Find requirements in 0520-1-10-.02(3);~~

~~2. Evaluation and assessment in 0520-1-10-.02(4);~~

~~3. Service coordination in 0520-1-10-.02(6); and~~

~~4. Activities required for administration and coordination regarding:~~

~~(i) The development, review and evaluation of an Individualized Family Service Plan and described in 0520-1-10-.02(10);~~

~~(ii) Implementation of procedural safeguards in 0520-1-10-.03; and~~

~~(iii) All other components of the State's early intervention system as provided in these Regulations.~~

~~(f) The inability of parents of an eligible infant or toddler to pay for services may not result in the denial of services to the child or the child's family.~~

~~(g) The lead agency shall:
incorporate policies regarding the system of payments within the state interagency agreements; and
monitor implementation of policies related to the payment for early intervention services to eligible children and their families.~~

~~(12) Transition.~~

~~(a) General.~~

~~Families shall be included in all aspects of transitional planning and implementation to ensure a smooth transition from early intervention services under IDEA Part C to special education services under IDEA Part B.~~

~~(b) Formal transition planning shall begin, and shall be documented in the IFSP, no later than the child's secondnd birthday. For infants and toddlers who are located and determined eligible for early intervention services through Tennessee's Early Intervention System after the age of two (2), a written transition plan shall be included in the initial IFSP. The individual in the early intervention system designated as service coordinator on the IFSP shall, with parental consent,~~

~~1. Provide written notification or referral to the local education agency (LEA) for that child on or before the child's secondnd birthday;~~

~~2. Convene a transition planning conference among the TEIS district office, the family and LEA no later than ninety (90) days (and at the discretion of all such parties, up to six (6) months) prior to the child's thirdrd birthday. This conference must be conducted individually for each child and family. The purpose of this meeting is to:~~

~~(i) Discuss the possibilities for preschool services that the child may possibly receive if determined eligible for IDEA Part B services;~~

~~(ii) Review the child's program options for the period from the child's thirdrd birthday through the remainder of the school year; and~~

~~(iii) Further develop and document the child's transition plan.~~

~~(c) For the child who has been determined eligible for special education services under IDEA Part B and is entitled to a Free Appropriate Public Education (FAPE) on his or her thirdrd birthday, an Individualized Education Plan (IEP) shall have been developed for the child and in effect on the child's thirdrd birthday. Eligibility determination for IDEA Part B services and development of the IEP are the responsibility of the IEP Team convened by the LEA.~~

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~~An IEP, developed in accordance with IDEA Part C and containing all additional required information to meet the requirements under IDEA Part B, may be used if agreed upon by agency and the child's parents.~~

~~If the child's third (3rd) birthday occurs during the summer, the child's IEP team shall determine the date when the implementation of the IEP will begin.~~

~~The granting of an early intervention waiver through any state or locally funded program does not alter the IDEA Part B eligible child's right to FAPE.~~

~~(d) In the case of the child who may not meet the eligibility criteria under IDEA Part B and is not eligible for preschool services through the LEA, with parental consent, the designated service coordinator shall make reasonable efforts to convene a transition conference among TEIS, the family, and providers of other appropriate services for non-eligible children to discuss other options for the child and family.~~

~~*Authority:* T.C.A. §§ 49-1-392, 49-10-601, and 49-10-702. *Administrative History:* Original rule filed June 29, 2011; effective September 16, 2011.~~

~~0520-1-10-.03 PROCEDURAL SAFEGUARDS.~~

~~(1) Surrogate Parent.~~

~~The Lead Agency shall maintain written policies and procedures for recruitment, training, and appointment of surrogate parents.~~

~~(a) TEIS shall, in accordance with Lead Agency procedures, appoint a surrogate parent to represent the child in all matters relating to the identification, evaluation, eligibility determination, assessment, development of an individualized plan, and the provision of appropriate early intervention services including meetings concerning the Individualized Family Service Plan and any mediation and due process hearings pertaining to the child when it determines that:~~

~~No parent can be identified; or~~

~~It is unable to locate a natural parent or legal guardian by calls, visits, and by sending a letter by certified mail (return receipt requested) to the last known address of the natural parent or the guardian and allowing ten days for a response of the intention to appoint a surrogate parent; or~~

~~The child is a ward of the State (including a ward of the court or of a state agency); and~~

~~(b) A surrogate parent, when representing the child's early intervention interests, has the same rights as those accorded to parents of eligible children and children suspected of being eligible.~~

~~(c) The surrogate parent shall continue to represent the child until one of the following occurs:~~

~~The child is determined by TEIS to be no longer eligible for, or in need of, early intervention services except when termination from such services is being contested;~~

~~The parent, who was previously unknown, or whose whereabouts were previously unknown, becomes known;~~

~~The legal guardianship of the child is transferred to a person who is able to fulfill the role of the parent; or~~

~~TEIS determines that the appointed surrogate parent no longer adequately represents the child.~~

~~(d) The criteria for selection of surrogate parents determines that:~~

~~1. TEIS shall ensure that a person recommended as a surrogate parent:~~

~~(i) Has no interest that conflicts with the interests of the child the surrogate parent represents;~~

~~(ii) Has knowledge and skills that ensure adequate representation of the child; and~~

~~(iii) Has completed the Surrogate Parent Training Program.~~

~~Foster parent(s), selected by an agency of the State of Tennessee as custodian for a child, who have had an eligible foster child for less than one calendar year, may be appointed by TEIS to serve as surrogate parent(s) for the foster child, provided that the foster parent(s) have no conflict of interest, they meet the non-employee requirement, and TEIS has trained them as a surrogate parent(s).~~

~~Foster parent(s), selected by an agency of the State of Tennessee as custodian(s) for a child, who have had an eligible foster child for more than one calendar year, are considered the parent(s) for the foster child.~~

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~~(e) The non-employee requirement determines that:~~

~~A person assigned, as a surrogate parent may not be an employee of, or otherwise affiliated with, any service provider involved in the provision of early intervention or other services to the child, and
A person who otherwise qualifies to be a surrogate parent is not considered an employee of an agency solely because the person is paid by a public agency to be a surrogate parent.~~

~~(f) The responsibility of a surrogate parent is:~~

~~1. To represent the child throughout the early intervention process of the identification, evaluation, eligibility determination, assessment, development of an individualized plan, and the initial provision of services, review of services, and reevaluation, as appropriate;~~

~~TENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.03, continued)~~

~~To be acquainted with the child and his/her needs; and~~

~~To respect the confidentiality of all records and information.~~

~~(g) If the health or safety of child would be endangered by delaying the provision of early intervention service due to the unavailability of a surrogate, the services may be provided sooner, but without prejudice to any rights that the child and parent(s) may have.~~

~~(2) Prior Written Notice.~~

~~TEIS and other early intervention service providers shall document that prior written notice is provided to parents of an eligible child or a child suspected of being eligible.~~

~~(a) Prior written notice shall be provided prior to the following occasions:~~

~~When an early intervention service provider proposes to initiate or change the identification, assessment, or provision of services to the child;~~

~~When an early intervention service provider refuses to initiate or change the identification, assessment, or provision of services to the child or refuses to make any changes requested by the parent(s) in the provision of early intervention services;~~

~~or
When an early intervention service provider refuses to amend the child's records or proposes to destroy unneeded records in accordance with the confidentiality requirements of this rule.~~

~~(b) Content of Notice:~~

~~1. The notice shall be in sufficient detail to:~~

~~(i) Explain all the procedural safeguards available to the parent(s);~~

~~(ii) Describe the proposed (or refused) action, explain the reasons for the action, and describe any options that were considered and why they were rejected;~~

~~(iii) Describe, when applicable, each assessment procedure, type of test, record, or report used as a basis for the action;~~

~~(iv) Include a description of any other factors relevant to the action;~~

~~(v) Be written in language understandable to the general public; and~~

~~(H) Be provided in the native language of the parent or the mode of communication used by the parents, unless it is clearly not feasible to do so;~~

~~(I) Be communicated orally (when necessary) in the native language or other mode of communication used by the parent(s), so that the parent(s) understands the content of the notice; and~~

~~(III) Provide sources for parent(s) to contact to obtain assistance in understanding the above provisions.~~

~~2. Steps to be utilized to ensure that parent(s) of an eligible child are present at each meeting of the IESP Team shall include:~~

~~(i) Timely communication and planning with the parents in initiating meeting scheduling;~~

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~~(ii) Scheduling the meeting at a mutually agreed-upon time and place;~~

~~(iii) Stating in the written notice provided to parent(s):~~

~~(I) The purpose, time, and location of the meeting;~~

~~(II) Scheduling the meeting at a mutually agreed-upon time and place; and~~

~~(III) That the parent(s) may bring other persons to the meeting if they choose to do so;~~

~~(IV) If the purpose of the meeting is the consideration of transition services at age three (3), the notice must also:~~

~~I. Indicate this purpose; and~~

~~II. Identify any other agency(s) that will be invited to send a representative.~~

~~(3) Parental Consent.~~

~~(a) Written informed consent shall be obtained before:~~

~~Conducting the initial evaluation and assessment of a child;~~

~~Conducting the family assessment;~~

~~Initiating the provision of early intervention services; and~~

~~Accessing third party payment for early intervention services;~~

~~Disclosing personally identifiable information to unauthorized persons, except for directory information where reasonable notice of disclosure is provided and the parent has not objected.~~

~~(b) If written consent is not given, reasonable efforts shall be made to ensure that the parent(s):~~

~~Is fully aware of the nature of the evaluation and assessment or the services that will be available;~~

~~Understands that the child will not be able to receive the evaluation and assessment unless written consent is given;~~

~~Understands that the child can not receive the recommended early intervention services unless written consent is given; and~~

~~Understands that their refusal to consent to an initial evaluation may result in a request by the appropriate state agency for a due process hearing.~~

~~(c) In addition, all requirements regarding personally identifiable information in the federal regulations shall be met.~~

~~(4) Parent(s) Right to Decline Service.~~

~~The parent(s) of a child eligible under 0520-1-10 may determine whether they, their child, or other family members will accept or decline any early intervention service under 0520-1-10 in accordance with State law. The parents may decline such a service after first accepting it without jeopardizing other early intervention services under 0520-1-10.~~

~~(5) Review of Records.~~

~~(a) The parents of an eligible child shall be given the opportunity to inspect and review early intervention records without unnecessary delay (in no case more than ten (10) days after the request is made) relating to:~~

~~Evaluations and assessments;~~

~~Eligibility determination;~~

~~Development and implementation of IFSPs;~~

~~Individual complaints related to the early intervention system dealing with the child; and~~

~~Any other area involving early intervention records about the child and the child's family.~~

~~(b) In addition, all requirements requiring access to any child record is governed by applicable federal and state law.~~

~~(c) The right to review a record includes:~~

~~The right to a response to reasonable requests for explanations and interpretations of the record;~~

~~The right to obtain, free of charge, one (1) copy of the record; and~~

~~The right to have a representative, of the parent's choosing (authorized in writing), review the record.~~

~~(d) THIS, and other public and private providers of early intervention services, shall, upon request, inform parents of the types and locations of records collected, maintained, or used by public agencies and private providers relating to: Screening, evaluation, assessment, eligibility determination, or the development and implementation of the IFSP.~~

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~~Individual complaints dealing with the child or family; and
Any other area under 0520-1-10 involving records about the child and family.~~

~~(e) TEIS and other public and private providers of early intervention services shall presume that the parent has authority to inspect and review records relating to his or her child unless the provider entity has been advised that the parent does not have the authority under applicable state law.~~

~~(Rule 0520-1-10 .03, continued)~~

~~governing such matters as guardianship, separation, and divorce, and a copy of the applicable document has been provided to the provider entity.~~

~~If any early intervention record includes information on more than one child, the parent of an eligible child or child suspected of being eligible shall have the right to inspect and review only the information relating to the child or to be informed of that specific information.~~

~~(f) A parent who believes that information in the early intervention records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the child may request that TEIS or other early intervention provider amend the information.~~

~~TEIS, or the early intervention service provider agency, upon receiving a request from a parent shall decide, within a reasonable time of its receipt of the request, but in no event more than forty-five (45) days, whether to amend the information as requested. If the participating agency decides to refuse to amend the information, it shall inform the parent of the refusal and advise the parent of the right to a hearing.~~

~~TEIS, or the early intervention provider agency shall, on request, provide an opportunity for a hearing to challenge information in early intervention records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.~~

~~If, as a result of the hearing, TEIS or the provider agency determines that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and provide written notice to the parents.~~

~~If, as a result of the hearing, TEIS or the early intervention provider agency determines that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parents of the right to place in the records an explanation commenting on the information or setting forth any reasons for disagreeing with the decision. Any explanation placed in the record of the child must be maintained by the participating agency as part of the record of the child as long as the record or contested portion is maintained. If the record of the child or the contested portion is disclosed by the participating agency to any party, the explanation must also be disclosed to the party.~~

~~(g) Written parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using information for the purposes of the activities described in this part.~~

~~1. The Lead Agency, TEIS, and other public and private early intervention services providers shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. The participating agency shall designate one person to assume responsibility for ensuring the confidentiality of any personally identifiable information.~~

~~2. Any person collecting or using personally identifiable information shall receive training or instruction regarding these procedural safeguards and FERPA. Early intervention agencies or providers must maintain, for public inspection, a current listing of the names and positions of employees who may have access to personally identifiable information.~~

~~2. Early intervention agencies or programs must keep a record of persons (other than parents or authorized employees) obtaining access to the child's records, including name, date, and their purpose for access.~~

~~(h) TEIS and other public and private early intervention providers shall inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide services to the child and shall have such information destroyed at the request of the parents.~~

~~(i) Information contained in the IESP or individual assessments and individual evaluations shall not be available to the public but must be available to all professionals serving the child and/or family. All confidentiality requirements apply.~~

~~(j) The provisions of this section expressly extend to any records or other information collected or maintained by any agency, organization, or person in connection with an individual evaluation.~~

~~Authority: T.C.A., §§ 49-1-302, 49-10-601, and 49-10-702; Administrative History: Original rule filed June 29, 2001;~~

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~~effective September 10, 2001.~~

~~0520-1-10-04 RESOLUTION OF INDIVIDUAL CHILD COMPLAINTS.~~

~~(1) The lead agency and the Division of Special Education shall provide for impartial resolution of individual child complaints by parents.~~

~~(a) A parent may file a written complaint when an early intervention agency or service provider proposes or refuses to initiate or change the: identification, evaluation, eligibility determination or assessment of an eligible child; development of an individualized family service plan; provision of appropriate early intervention services to the child or the child's family; or use of third party payment for early intervention services.~~

~~(b) A written complaint shall: be signed by the parent(s) or surrogate parent(s); contain a written description of the complaint; and be filed with the lead agency through the TEIS district office.~~

~~(c) The lead agency shall confirm receipt of the complaint in writing with the parent and all other parties involved in the complaint.~~

~~(d) Within sixty (60) calendar days after a complaint is filed, the lead agency must:~~

- ~~1. carry out an independent on-site investigation, if it is determined that such an investigation is necessary;~~
- ~~2. ensure that involved parties will have the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;~~
- ~~3. review all relevant information and make an independent determination as to whether the public agency is violating a requirement of the law;~~
- ~~4. issue a written decision that addresses each allegation and contains the following:~~

~~(i) findings of fact and conclusions and~~

~~(ii) the reasons for the final decision; and~~

~~5. provide procedures for effective implementation of the final decision and, if needed, assist with technical assistance activities, negotiations, and corrective actions needed to achieve compliance.~~

~~(e) If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of a hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the sixty calendar day timeline using the complaint procedures set forth in this rule.~~

~~(f) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding, and the lead agency must inform the complainant to that effect.~~

~~(g) The lead agency must resolve a complaint alleging a public agency's or a private service provider's failure to implement a due process decision.~~

~~(2) Mediation~~

~~The lead agency shall ensure that procedures and resources for participation in mediation is available to allow parties to seek resolution of disputes regarding any issue regarding service delivery under IDEA, Part C. The option to participate in a mediation process shall, at a minimum, be available whenever a due process hearing is requested. Parent(s) and early intervention provider(s) may participate in mediation to resolve disputes regarding the provision of appropriate early intervention services to an eligible child or a child suspected of being eligible. Mediation shall be voluntary and must be mutually agreed upon by the parent(s) and early intervention service provider(s).~~

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- ~~(a) Mediation may be requested by parents or an early intervention service provider when a conflict regarding early intervention services of an eligible child or a child suspected of being eligible cannot be resolved without third party assistance; or either involved party is requesting a due process hearing.~~
- ~~(b) When the parents and early intervention service provider agree to mediate a conflict, a "Request for Mediation" form shall be completed and signed by both parties and forwarded to the lead agency through the TEIS district office.~~
- ~~(c) The lead agency shall maintain a list of individuals who are qualified mediators and knowledgeable in federal and state laws and regulations relating to the provision of early intervention services in accordance with IDEA Part C.~~
- ~~(d) Qualified and impartial third party mediators trained in effective mediation techniques and assigned through the Division of Special Education shall conduct all mediation sessions. All mediators shall receive training in the following areas: state and federal early intervention laws and regulations; procedures for conducting mediation sessions in an orderly and controlled manner; group process skills essential to achieving consensus agreement; phases of mediation; procedures for writing a consensus agreement; and procedures for debriefing the parties.~~
- ~~(e) If a mediator is not selected on a random (e.g., a rotation) basis from the list described in section 0520.1-10.04(2)(c) of this rule, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.~~
- ~~(f) Mediators shall not be assigned to cases under the following conditions: the mediator is employed by other organizations or agencies involved in the provision of early intervention services to the child and/or family whose program is in dispute; or if that person has a personal or professional interest that would conflict with his/her objectivity.~~
- ~~(g) The mediation session(s) must be scheduled in a timely manner and shall occur at a mutually agreed upon time and date but may not delay or deny either party's rights to a due process hearing or obviate the need for adherence to the prescribed timelines if a due process hearing has been requested.~~
- ~~(h) Any agreement reached by the parties to the dispute in the mediation process must be set forth in a written mediation agreement. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation may be required to sign a confidentiality pledge prior to the commencement of the process.~~
- ~~(i) Records, notes or summaries of mediation proceedings may not be entered into evidence in a due process hearing. Neither the mediator, nor any participant in the mediation proceeding, shall be subpoenaed as a witness in a due process hearing for a child for whom he/she participated.~~
- ~~(j) The Division of Special Education shall be responsible for ensuring or providing appropriate meeting space and shall bear the administrative costs of arrangements for the mediation. No parent shall, in any case, be responsible for any administrative cost related to the mediation activity.~~
- ~~(k) If a parent is not satisfied with the findings and decision of the mediation procedure, the parent may request in writing a due process hearing by:~~
- ~~1. filing a written request with the lead agency through the TEIS district office; and~~
 - ~~2. following the due process procedure outlined in Federal Regulations.~~
- ~~(3) Due Process~~
Parents have the right to an impartial due process hearing in order to settle disputes regarding the provision of appropriate early intervention services to an eligible child or a child alleged to be eligible. The lead agency shall provide a model form to assist parents in filing a request for due process that provides for the inclusion of all required information. However, a public agency may not deny or delay a parent's right to a due process hearing for failure to provide notice.

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~~(a) The parent of a child with a disability or the attorney representing the child is required to provide notice (which must remain confidential) to the lead agency of the request for a hearing. This notice must include: the name of the child; the address of the residence of the child; the name of the early intervention program in which the child is participating; a description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and a proposed resolution of the problem to the extent known and available to the parents at the time.~~

~~(b) A request for a hearing by a parent shall be made in writing, giving a brief statement of facts supporting the grounds to the lead agency through the TEIS district office, if the child has been or is about to be denied identification, evaluation, entry, or continuance in appropriate services; provided early intervention services which are inappropriate to his conditions and needs; denied his rights by having data collected, maintained or used which the parent believes to be inaccurate, misleading or otherwise in violation of the privacy rights of the child; improperly identified as eligible for early intervention services.~~

~~(c) When the parent requests a hearing, the TEIS district office shall contact the parent for the purpose of establishing the following: suitable time (morning, afternoon, or evening); two possible dates for the hearing to be held; and whether the hearing will be closed or open.~~

~~(d) The TEIS district office, upon receiving the request for a hearing, shall inform the parents of low-cost or free legal and other relevant services available to them and shall document the information given.~~

~~(e) Parents involved in hearings shall have the right to: have the child who is the subject of the hearing present and open the hearing to the public.~~

~~(f) At least five business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.~~

~~(g) In the event that a parent refuses to consent to an initial evaluation, a request for a hearing can be made in writing to the Division of Special Education, giving a brief statement of facts supporting the grounds for the hearing.~~

~~(h) The hearing shall occur no less than fifteen (15) days and no more than thirty (30) days from the receipt of a request for a hearing from the parent. A final decision must be reached in the hearing no later than forty-five (45) days after the receipt of a request for a hearing unless an extension is requested by either party and approved by the hearing officer.~~

~~1. Extensions of the time frames established in this section shall only be permitted if exceptional circumstances exist with respect to a particular complaint. An extension shall not result in a decision later than ninety (90) days from receipt of the request for the hearing.~~

~~(i) The lead agency shall maintain a list of the persons who serve as hearing officers. The list shall include a statement of the qualifications of each of those persons. An impartial hearing officer assigned by the Division of Special Education shall conduct the hearing. All hearing officers shall be trained in the following areas: state and federal special education and early intervention laws and regulations; the Uniform Administrative Procedures Act; clear writing and proper grammatical form; conducting hearings in an orderly and controlled manner; rendering decisions in an impartial manner; extracting pertinent data from a variety of sources; and arriving at an appropriate decision; the nature of developmental delays in infants and toddlers and early intervention programming; evaluation and assessment instruments and procedures;~~

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~~and a professional demeanor and objectivity.~~

~~(j) No hearing officer shall be an officer or employee of an early intervention program.~~

~~(k) No hearing officer shall have a personal or professional interest that would conflict with his/her objectivity.~~

~~(l) The TEIS district office shall be responsible for providing an appropriate meeting place, a stenographic record of the hearing and a typed transcript of the hearing proceedings, and shall bear the administrative costs of the hearing, with the exception of the services of the hearing officer. Expenses for the services of a court reporter, the original copy of the transcript and one copy for the parent will be reimbursed on submission of appropriate documentation to the Division of Special Education. Court reporter fees will not, however, be reimbursed when transcripts are not released within ten (10) days after the date of the hearing, except in extraordinary circumstances, as determined by the hearing officer.~~

~~(m) During the pendency of any proceeding involving an individual child complaint, unless the early intervention provider involved in the disputed service and the parents agree otherwise, the child must continue to receive the early intervention services listed in the IFSP.~~

~~1. If the complaint involves initial eligibility for early intervention services, the child, with the consent of the parents, must be provided early intervention services until the completion of all the proceedings.~~

~~(n) Any party to a due process hearing has the right to:~~

~~be accompanied and advised and/or represented by counsel and by individuals with special knowledge or training with respect to the problems of eligible children;~~

~~present evidence and confront, cross-examine, and compel the attendance of witnesses;~~

~~receive a written decision including findings of fact and conclusions of law, based upon evidence presented at the hearing;~~

~~and~~
~~prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing.~~

~~(o) Requests for the attendance of witnesses shall be made to the lead agency who shall inform the hearing officer of the request. Subpoenas to compel the attendance of witnesses and the production of documentary evidence shall be issued by the hearing officer. The lead agency shall ensure the availability of appropriate employees called as witnesses.~~

~~(p) The lead agency shall provide a typed transcript of the proceedings to the following:~~

~~the parent; and~~
~~the hearing officer (original copy).~~

~~(q) A final decision will be reached in the hearing and a copy of the decision will be mailed to the following:~~

~~the parents;~~

~~the appropriate early intervention service providers; and~~

~~the Division of Special Education.~~

~~(r) Unless a decision is rendered within forty-five (45) days after the receipt of a request for hearing, the hearing officer will not be reimbursed, except in extraordinary circumstances as determined by the Commissioner or a continuance is granted by the hearing officer. In addition, if no decision has been rendered within forty-five (45) days after the receipt of a~~

~~(Rule 0520-1.10-04, continued)~~

~~request for hearing, the party requesting the hearing may request that a different hearing officer be appointed to review the existing transcript and evidence and render a decision on the record.~~

~~(s) A decision by a hearing officer, as a result of a hearing, is final unless a party appeals the decision to state court in accordance with T.C.A. 4-5-322 and 49-10-604. Nothing in this section, however, shall prevent either party from bringing an action in the cognizant federal district court, as otherwise authorized by law. No party can file petitions for reconsideration to the hearing officer.~~

~~(t) The district courts of the United States have jurisdiction of actions brought under section 615 of the IDEA without regard to the amount in controversy. Any party aggrieved by the findings and decision regarding an individual child complaint has the right to bring a civil action in state or federal court. In any such action brought in civil court, the court shall~~

~~receive the records of the administrative proceedings;~~

~~hear additional evidence at the request of a party; and~~

~~base its decision on the preponderance of the evidence, grant the relief that the court determines to be appropriate.~~

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~~(4) The lead agency shall, after removing personally identifiable information, transmit to the ICC the decision and make the due process hearing decisions available to the public, in a manner consistent with State and Federal confidentiality requirements.~~

~~Authority: T.C.A. §§ 19-1-302, 19-10-601, and 19-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001. Amendment filed June 30, 2003; effective October 28, 2003.~~

~~0520-1-10 .05 STATE ADMINISTRATION.~~

~~(1) The Tennessee Department of Education is designated by the Governor as lead agency for TEIS and is responsible for the administration of the State's early intervention system.~~

~~(2) The Tennessee Department of Education, in accordance with IDEA Part C and state interagency agreements, shall be responsible for:~~

~~(a) the general administration and supervision of programs that receive funding under IDEA Part C to provide services to eligible infants and toddlers and their families; and~~

~~(b) assigning financial responsibility among appropriate agencies for early intervention services.~~

~~(3) The Tennessee Department of Education shall be responsible for the supervision and monitoring of programs including:~~

~~(a) supervising and monitoring programs and activities that comprise the early intervention system, including agencies, institutions, and organizations which provide early intervention services to children eligible under Part C and their families, for compliance with IDEA Part C and the provisions of federal and state regulations, policies and procedures, whether or not the programs or activities receive financial assistance under Part C of IDEA;~~

~~(b) providing, or facilitating the provision of, technical assistance to those agencies, institutions, and organizations including self-evaluation, program planning and implementation;~~

~~(c) enforcing obligations imposed on those agencies, institutions and organizations as required under these regulations; and~~

~~(d) directing that deficiencies identified through monitoring be corrected.~~

~~(4) Each agency receiving assistance under IDEA Part C shall:~~

~~(a) submit financial and other written reports at the time and manner specified by TEIS; and~~

~~(b) participate in periodic on-site monitoring visits conducted by TEIS.~~

~~(5) Tennessee Department of Education procedures for receiving and resolving early intervention systems complaints shall include:~~

~~(a) widely disseminating information regarding the requirements and procedures for filing such a complaint to parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers and other appropriate entities;~~

~~(b) receiving and resolving any early intervention systems complaint alleging that one or more requirements under Part C are not met; and~~

~~(c) conducting an independent on-site investigation of an early intervention system complaint if determined necessary.~~

~~1. The early intervention system complaint may concern violations by:~~

~~(i) any public agency in the State that receives funding under Part C of IDEA;~~

~~(ii) other public agencies that are identified as being part of the State's early intervention system; or~~

~~(iii) private service providers under public supervision.~~

~~2. Any individual or organization, including an organization or individual from another state, may file a written, signed early intervention system complaint with the lead agency that any public agency or private service provider is violating a~~

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~~requirement of Part C of IDEA or this Rule. The complaint shall include:~~

~~(i) a statement that the state has violated a requirement of Part C of the Individuals with Disabilities Education Act (IDEA) or its regulations; and~~

~~(ii) the facts on which the early intervention system complaint is based.~~

~~3. The alleged violation must have occurred not more than one (1) year before the date that the complaint is received by the public agency unless a longer period is reasonable because:~~

~~(i) the alleged violation continues for the child or other children; or~~

~~(ii) the complaint is requesting reimbursement or corrective action for a violation that occurred not more than three (3) years before the date on which the complaint is received by the public agency.~~

~~4. Within sixty (60) days of the receipt of an early intervention systems complaint, the lead agency shall:~~

~~(i) carry out an independent on-site investigation, if determined necessary by the lead agency;~~

~~(ii) provide opportunity for the complainant to submit additional information, either orally or in writing, about the allegations in the complaint;~~

~~(iii) resolve the early intervention system complaint; and~~

~~(iv) issue a written report of the findings, recommendations, the reason for the decision, and required actions to the individual or organization filing the complaint and all other parties involved in the complaint.~~

~~(d) An extension of the time limit shall be granted only if the lead agency determines that exceptional circumstances exist with respect to a particular early intervention system complaint.~~

~~(e) In resolving a complaint in which it finds a failure to provide appropriate services, the lead agency, pursuant to its general supervisory authority under Part C of the IDEA shall address how to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family, and appropriate future provision of services for all infant and toddlers with disabilities and their families.~~

~~(f) Information regarding procedures for filing a complaint will be included in the Rights of Infants and Toddlers document published by the lead agency and will be made available to parents and other interested individuals.~~

~~(g) The lead agency shall, after removal of all personally identifiable information, transmit to the State Interagency Coordinating Council the decisions regarding early intervention system complaints, and also make decisions available to the public in a manner consistent with state and federal confidentiality requirements.~~

~~(6) The Tennessee Department of Education shall utilize funds provided under IDEA Part C that are reasonable and necessary for administering the state early intervention system.~~

~~(7) TEIS shall ensure that traditionally underserved groups, including minority, low-income, and rural families, are meaningfully involved in the planning and implementation of all components of the early intervention system and that these families have access to culturally competent services within their local geographical areas.~~

~~(8) The lead agency shall utilize contractual arrangements as a method of securing required early intervention services for children and families. Each contractor will be required by the terms of their contract to adhere to all applicable state and federal requirements for the provision of services to Part C eligible children and their families.~~

~~(a) All early intervention services provided for eligible children and their families shall meet the definition of early intervention services and shall be provided in a manner that is consistent with state and federal standards for services under IDEA Part C.~~

~~(b) Procurement of early intervention services by service providers shall conform to the applicable agency procurement~~

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~~polices.~~

~~(c) Individuals or organizations seeking to provide early intervention services shall meet the requirements and standard established by the lead agency.~~

~~Authority: T.C.A., §§ 19-1-302, 19-10-601, and 19-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001. Amendment filed June 30, 2002; effective October 28, 2003.~~

~~0520-1-10-.06 INTERAGENCY AGREEMENTS.~~

~~(1) General.~~

~~The Lead Agency shall enter into and maintain formal interagency agreements with other state-level agencies involved in the State's early intervention system. Each agreement shall:~~

~~(a) Define the financial responsibility of each agency involved;~~

~~(b) Include procedures for a timely resolution of intra-agency and interagency disputes regarding payment or other matters related to the early intervention system, including a mechanism for making a final determination that is binding upon the agencies involved;~~

~~(c) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and~~

~~(d) Include the process to be used in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner;~~

~~(e) Include procedures for timely reimbursement of funds to TBIS for interim payment made for early intervention services in accordance with 34 CFR 302.527(b) to prevent delay in the timely provision of services to an eligible infant or toddler or their family, pending reimbursement from the agency or entity that has ultimate responsibility for payment; and~~

~~(f) Include any other components necessary to ensure effective cooperation and coordination among all agencies.~~

~~(2) The Department (TBIS) shall, in accordance with established TBIS procedures, ensure that services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies or service providers.~~

~~Authority: T.C.A., §§ 19-1-302, 19-10-601, and 19-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001.~~

~~0520-1-10-.07 IDENTIFICATION AND COORDINATION OF RESOURCES.~~

~~(1) General.~~

~~The Lead Agency shall maintain control of funds provided to the State under IDEA Part C and title to property acquired with those funds will be in a public agency for the uses and purposes provided in this part, and a public agency will administer the funds and property.~~

~~(2) The Department (TBIS) shall be responsible for:~~

~~(a) The identification and coordination of all available resources for early intervention services within the State, including those from federal, state, local and private sources. Federal funding sources in this section include:~~

~~Title V of the Social Security Act (relating to Maternal and Child Health);~~

~~Title XIX of the Social Security Act (relating to the general Medicaid Program which includes EPSDT) (TempCare);~~

~~The Head Start Act;~~

~~TENNESSEE'S EARLY INTERVENTION SYSTEM CHAPTER 0520-1-10 (Rule 0520-1-10-.07-continued)~~

~~Parts B and C of IDEA;~~

~~Subpart 2 of Part D of Chapter 1 of Title 1 of the Elementary and Secondary Education Act of 1965, as amended;~~

~~The Developmental Disabilities Assistance and Bill of Rights Act (Pub.L. 94-103); and~~

~~Other Federal Programs; and~~

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~~(b) Updating the information on the funding sources if there is a legislative or policy change under any of those sources.~~

~~(3) As a payer of last resort, the Department (TEIS) shall not utilize IDEA Part C funds to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source but for the enactment of IDEA Part C and Tennessee's election to participation in this system. Therefore, IDEA Part C funds may be used only for early intervention services that an eligible child needs but is not currently entitled to under any other federal, state, local, or private source.~~

~~(4) The Department (TEIS) shall in no way permit IDEA Part C funds to be used to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act (SSA) (relating to maternal and child health) or Title XIX of the SSA (relating to Medicaid for children eligible under this part) within the State of Tennessee (34 C.F.R. § 302.527(e)).~~

~~(5) Funds provided to the State under IDEA Part C shall only be used to supplement and increase state and local funds for eligible children. They shall not be utilized to supplant existing state and local funds. The total amount of state and local funds budgeted for expenditures in each current fiscal year shall be at least equal to the total amount of state and local funds actually expended for early intervention services for these children and families in the most recent preceding fiscal year for which the information is available. Allowances may be made for:~~

~~(a) Decreases in the number of infants and toddlers who are eligible to receive services under IDEA Part C; and~~

~~(b) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.~~

~~(6) The Department (TEIS) shall ensure that an equitable distribution of resources is made available among all geographical areas of the State.~~

~~*Authority: T.C.A. §§ 19-1-302, 19-10-601, and 19-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001.*~~

~~0520-1-10-08 TEIS INTERAGENCY COORDINATING COUNCIL (ICC).~~

~~(1) General Tennessee's early intervention system shall maintain an Interagency Coordinating Council which:~~

~~(a) is appointed by the Governor in accordance with IDEA Part C;~~

~~(b) consists of a membership representative of the population of the state, and is composed as follows:~~

~~1. at least twenty (20) percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged twelve (12) or younger with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be the parent of an infant or toddler with a disability or a child with a disability aged six (6) or younger;~~

~~2. at least twenty (20) percent of the members shall be public or private providers of early intervention services;~~

~~3. at least one (1) member shall be from the state legislature;~~

~~4. at least one (1) member shall be involved in personnel preparation;~~

~~5. at least one (1) member shall be from each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies;~~

~~6. at least one (1) member shall be from the state educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency;~~

~~7. at least one (1) member shall be from the agency responsible for the state governance of health insurance;~~

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~~8. at least one (1) member shall be from a Head Start agency or program in the state;~~

~~9. at least one (1) member must be from a state agency responsible for child care; and~~

~~10. others appointed as deemed appropriate and selected by the Governor.~~

~~(2) The Governor shall designate a member of the council to serve as chairperson or shall require the council to so designate such a member. No member who is a representative of the Tennessee Department of Education shall be able to serve as the council chairperson.~~

~~(3) The ICC shall advise and assist the lead agency in the development and implementation of the policies that constitute the statewide system including, but not limited to:~~

~~(a) achieving the full participation, coordination and cooperation of all appropriate public agencies in the state;~~

~~(b) the effective implementation of the statewide system by establishing a process that includes: seeking information from service providers, service coordinators, parents, and others about any federal, state, or local policies that impede timely service delivery; and taking steps to ensure that any policy problems identified under this section are resolved;~~

~~(c) the resolution of disputes, as appropriate;~~

~~(d) the provision of appropriate services for children from birth through age five (5) years of age;~~

~~(e) the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether or not "at risk" is a recognized eligibility for early intervention services;~~

~~(f) the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of interagency agreements;~~

~~(g) the preparation of applications and the amendments thereto; or~~

~~(h) the transition of toddlers with disabilities to preschool and other appropriate services.~~

~~(4) The ICC shall prepare and submit an annual report to the Governor and to the Secretary of Education on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the state in keeping with the date and format established by the Secretary of Education.~~

~~(5) The ICC shall meet at least quarterly. Meetings shall be:~~

~~(a) announced to the public, no later than ten (10) business days, prior to the scheduled meeting; and~~

~~(b) to the extent appropriate, open and accessible to the general public.~~

~~(6) The ICC may, subject to approval of the Governor, prepare and approve a budget using funds under IDEA Part C to:~~

~~(a) conduct hearings and forums;~~

~~(b) reimburse members of the ICC for reasonable and necessary expenses for participating in council meetings and performing council duties;~~

~~(c) pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business;~~

~~(d) hire staff;~~

~~(e) obtain the services for such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part; and~~

~~(f) provide interpreting services for persons who are deaf and other necessary services, both for council members and participants.~~

~~(7) Except as provided in this section, council members shall serve without compensation from Part C funds.~~

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~~(8) No member of the ICC shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Tennessee law.~~

~~Authority: T.C.A. §§ 10-1-302, 10-10-601, and 10-10-702. Administrative History: (Original rule filed June 29, 2001; effective September 10, 2001. Amendment filed June 30, 2002; effective October 28, 2002.)~~

~~0520-1-10-09 LOCAL INTERAGENCY COORDINATING COUNCIL (LICC).~~

~~(1) General.~~

~~Each of the nine (9) geographic districts of TEIS shall maintain a Local Interagency Coordinating Council (LICC). Each LICC shall consist of:~~

~~(a) Fifteen (15) to twenty-five (25) members including families and local service providers who are involved in the provision and/or coordination of early intervention services to IDEA Part C eligible infants and toddlers and their families.~~

~~(2) The membership of the LICC shall include, at a minimum:~~

~~(a) At least twenty (20) percent shall be parents of infants or toddlers with disabilities or children with disabilities aged eight (8) or younger with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one (1) such member shall be the parent of an infant or toddler with a disability or a child with a disability aged three (3) or younger and must include parents of children, including minority parents of infants or toddlers with disabilities.~~

~~(b) At least twenty (20) percent of members must be public or private providers of early intervention/early childhood services.~~

~~(c) At least one (1) member shall be from a local Head Start/Early Head Start Program.~~

~~(d) At least one (1) member shall be from a local childcare program and/or the local Child Care Resource Center.~~

~~(e) At least one (1) member shall be representing the local health care system.~~

~~(f) At least one (1) member shall be from a local education agency (LEA); and~~

~~(g) Others, as deemed appropriate by the Council to address the unique needs and concerns of that TEIS district.~~

~~(3) An updated membership roster, including identification of the individual designated as chairperson by the Council for the upcoming year, shall be submitted to the State lead agency no later than July 1st of each fiscal year.~~

~~(4) The LICC shall meet at least quarterly and in such places as it deems appropriate and shall be:~~

~~(a) Announced to the public no later than ten (10) working days prior to the meeting.~~

~~(b) Open and accessible to the general public; and~~

~~(c) Minutes and attendance shall be maintained for each meeting.~~

~~(5) The functions of the Local Interagency Coordinating Council shall include:~~

~~(a) Facilitating collaboration among the local TEIS District Office and other entities involved in the early intervention system at the local level.~~

~~(b) Promoting and implementing interagency public awareness activities at the local and regional level in accordance with the plan for effective outreach developed by the lead agency for the early intervention system.~~

~~(c) Advising and assisting in the coordination of regional and local early intervention initiatives to ensure effective implementation of the early intervention system.~~

~~(d) Providing information to the NICC regarding local issues relating to the timely delivery of services.~~

~~(e) Developing local collaborative agreements to ensure timely referrals of infants and toddlers known to be or suspected of experiencing developmental delays and effective transition to appropriate services upon exiting the early intervention system at age three.~~

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~~(f) Participating in the community network phase of the TEIS monitoring including:
Providing information to the monitoring team; and
Receiving and preparing a plan of corrective actions for any findings resulting from the monitoring visit.~~

~~Authority: T.C.A. §§ 49-1-302, 49-10-601, and 49-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001.~~

~~**0520-1-10-10 DATA COLLECTION.**~~

~~(1) The Department shall maintain a system for collecting, managing, analyzing, and reporting statewide data regarding the current operational status of the various components of Tennessee's Early Intervention System. Specific aspects of the early intervention system for which data is currently compiled and utilized includes, but is not limited to:~~

- ~~(a) The number of referrals received by the system and the referral sources;~~
- ~~(b) The unduplicated number of eligible children served by the system;~~
- ~~(c) Local Child Find efforts;~~
- ~~(d) The types and quantity of early intervention system;~~
- ~~(e) The availability and qualifications of service providers available in the State;~~
- ~~(f) The locations and settings in which services are provided;~~
- ~~(g) Information regarding the numbers of children who transition to IDEA Part B preschool services at age three (3); and~~
- ~~(h) Training needs of service providers and the provision of training by the early intervention system.~~

~~Authority: T.C.A. §§ 49-1-302, 49-10-601, and 49-10-702. Administrative History: Original rule filed June 29, 2001; effective September 10, 2001.~~

* 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				
Justice				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 TN State Board of Education on 7/27/12, 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: October 1, 2012

Signature: _____

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me

on: October 1, 2012

Notary Public Signature: Beth Cooper

My commission expires on: January 26, 2016

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

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

1-14-13

Date

Department of State Use Only

Filed with the Department of State on: 1/30/13

Effective on: 6/30/13



Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Enrollee Cost Sharing under TennCare Standard

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 71-5-105

EFFECTIVE DATES: April 15, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rules bring the Enrollee Cost Sharing rules into compliance with the Cost-Sharing Implementation Plan approved by the Centers for Medicare and Medicaid services. The rules add definitions and outline the cost-sharing amounts and principles in the Cost-Sharing Implementation Plan.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

The rules are not anticipated to have an impact on local governments.

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 01-11-13
Rule ID(s): 5360
File Date: 1/15/13
Effective Date: 4/15/13

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):

- Amendments
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.01	Definitions
1200-13-14-.05	Enrollee Cost Sharing

(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>)

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (5) and renumbering the current Paragraph (5) as (6) and subsequent paragraphs renumbered accordingly so as amended the new Paragraph (5) shall read as follows:

(5) Aggregate Cost-Sharing Cap. The maximum amount a family may pay out-of-pocket for TennCare covered services during a calendar quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, October 1 through December 31). Amounts paid for non-covered services, including payments for services that exceed a benefit limit, are not counted in the aggregate cost-sharing cap. Amounts paid by the family for third party insurance are not counted in the aggregate cost-sharing cap.

Rule 1200-13-14-.01 Definitions is amended by adding new Paragraphs (15) and (16) and renumbering the current renumbered Paragraph (15) as (17) with subsequent paragraphs being renumbered accordingly so as amended new Paragraphs (15) and (16) shall read as follows:

(15) CHOICES 1 and 2 Carryover Group. See definition in Rule 1200-13-01-.02.

(16) CHOICES At-Risk Demonstration Group. See definition in Rule 1200-13-01-.02.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (31) and renumbering the current renumbered Paragraph (31) as (32) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (31) shall read as follows:

(31) Copay. A fixed fee that is charged to certain TennCare enrollees for certain TennCare services.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (38) and renumbering the current renumbered Paragraph (38) as (39) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (38) shall read as follows:

(38) Deductible. A specified amount of money paid each year by an insured person for benefits before his health plan starts paying claims.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (95) and renumbering the current renumbered Paragraph (95) as (96) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (95) shall read as follows:

(95) PACE Carryover Group. See definition in Rule 1200-13-01-.02.

Rule 1200-13-14-.01 Definitions is amended by adding a new Paragraph (101) and renumbering the current renumbered Paragraph (101) as (102) with subsequent paragraphs renumbered accordingly so as amended the new Paragraph (101) shall read as follows:

(101) Premium. A specified amount of money that an insured person is required to pay on a regular basis in order to participate in a health plan.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

Rule 1200-13-14-.05 Enrollee Cost Sharing is deleted in its entirety and replaced with a new Rule 1200-13-14-.05 Enrollee Cost Sharing which shall read as follows:

1200-13-14-.05 Enrollee Cost Sharing.

(1) Premiums and deductibles.

(a) Enrollees are not required to pay premiums for TennCare.

(b) There are no TennCare deductibles.

(2) Copays.

(a) The following TennCare Standard enrollees are exempt from TennCare copays:

1. Enrollees who are receiving hospice services and who provide verbal notification of such to the provider at the point of service.

2. Enrollees who are pregnant and who provide verbal notification of such to the provider at the point of service.

3. Enrollees who are enrolled in any of the following CHOICES groups:

(i) The CHOICES 217-Like Group

(ii) The CHOICES 1 and 2 Carryover Group

(iii) The PACE Carryover Group

4. Children who are enrolled in TennCare Standard and who have family incomes below 100% of poverty.

(b) The following TennCare services are exempt from TennCare copays for all enrollees:

1. Emergency services, including the seventy-two (72) hour emergency supply of a medication in an emergency situation, as described in Rule 1200-13-14-.11.

2. Family planning services and supplies.

3. Preventive services as identified in Rule 1200-13-14-.04.

(c) Pharmacy copays.

1. There is no pharmacy copay for covered generic prescription drugs.

2. The following TennCare Standard enrollees have a pharmacy copay of \$3.00 per covered brand name prescription:

(i) TennCare Standard children with family incomes that are 100% of poverty or greater.

(ii) Enrollees in the Standard Spend Down program.

(iii) Enrollees in the CHOICES At-Risk Demonstration Group.

(d) Copays for other TennCare services. The following copays are applicable to TennCare Standard children.

<u>Benefit</u>	<u>Copay if income is 0%-99% of poverty</u>	<u>Copay if income is 100%-199% of poverty</u>	<u>Copay if income is 200% of poverty or greater</u>
<u>Hospital emergency room use for non-emergency services (waived if admitted)</u>	<u>\$0</u>	<u>\$10</u>	<u>\$50</u>
<u>Primary care provider services other than preventive care</u>	<u>\$0</u>	<u>\$5</u>	<u>\$15</u>
<u>Community Mental Health Agency services other than preventive care</u>	<u>\$0</u>	<u>\$5</u>	<u>\$15</u>
<u>Physician specialists and dentists</u>	<u>\$0</u>	<u>\$5</u>	<u>\$20</u>
<u>Prescription or refill</u>	<u>\$0</u>	<u>\$3 for covered branded prescriptions; \$0 for generic prescriptions</u>	<u>\$3 for covered branded prescriptions; \$0 for generic prescriptions</u>
<u>Inpatient hospital admission</u>	<u>\$0</u>	<u>\$5</u>	<u>\$100</u>

(e) Copays for non-emergency services provided in an emergency department are not required unless the hospital has first provided the enrollee with assistance in gaining access to a non-emergency services provider (a physician's office, health care clinic, community health center, hospital outpatient department, or similar provider). This requirement on the part of the hospital can be met if, before providing non-emergency care subject to copay, the emergency room staff recommends that the enrollee or the enrollee's caretaker call the 24/7 nurse staffed call center for the enrollee's MCO to obtain help in locating an available provider in the community, and offers to assist with placing a call to the call center.

(3) Aggregate cost-sharing cap.

(a) The aggregate cost-sharing cap is applicable only to TennCare copays incurred by TennCare Standard children with incomes at or above 100% of poverty and their TennCare family members.

(b) The aggregate cost-sharing cap is calculated by combining the TennCare cost sharing for all TennCare family members who have TennCare cost-sharing obligations, and may not exceed 5 percent of the family's annual income, prorated to a quarterly equivalent. Family income will be calculated using the same methodology used to calculate income for the determination of eligibility, and the family will be assigned to the corresponding income band to determine the standardized aggregate cap, which is based on the lower end of the income band. The following income bands and the corresponding aggregate annual caps will be used:

<u>Income Bands</u>	<u>Poverty levels</u>	<u>Standardized Annual Aggregate Cap</u>
<u>1</u>	<u>0% - 99%</u>	<u>Not applicable</u>
<u>2</u>	<u>100% - 149%</u>	<u>5% of the amount that corresponds to 100% FPL</u>
<u>3</u>	<u>150% - 199%</u>	<u>5% of the amount that corresponds to 150% FPL</u>
<u>4</u>	<u>200% - 249%</u>	<u>5% of the amount that corresponds</u>

		to 200% FPL
<u>5</u>	<u>250% - 299%</u>	<u>5% of the amount that corresponds to 250% FPL</u>
<u>6</u>	<u>300% - 349%</u>	<u>5% of the amount that corresponds to 300% FPL</u>
<u>7</u>	<u>350% - 399%</u>	<u>5% of the amount that corresponds to 350% FPL</u>
<u>8</u>	<u>400% - 499%</u>	<u>5% of the amount that corresponds to 400% FPL</u>
<u>9</u>	<u>500% - 599%</u>	<u>5% of the amount that corresponds to 500% FPL</u>
<u>10</u>	<u>600% and over</u>	<u>5% of the amount that corresponds to 600% FPL</u>

- (c) Families of applicable TennCare Standard children are responsible for tracking their own incurred cost sharing obligations, including keeping copies of receipts and similar documentation, and notifying the Bureau of TennCare when they believe they have reached their aggregate cost-sharing cap for a particular calendar quarter.
- (d) After receiving the information described in subparagraph (c), TennCare will notify families of applicable TennCare Standard children of the date when it has been determined that the aggregate cost-sharing cap, as prorated for the quarter, has been reached. When that occurs, there are no further TennCare cost-sharing obligations required for the remainder of the calendar quarter. Any TennCare copays that are paid by the family during the quarter after the family's aggregate cost-sharing cap, as pro-rated for that quarter, has been reached will be refunded to the family by TennCare.
- (4) This paragraph applies to all TennCare Managed Care Contractors and providers.
- (a) In accordance with 42 CFR § 447.53(e), providers may not refuse to deliver a covered service to an enrollee because of the enrollee's inability to make his copay.
- (b) Managed care contractors participating in the TennCare program shall be specifically prohibited from waiving or discouraging TennCare enrollees from paying any applicable cost-sharing amounts.

1200-13-14-.05 ENROLLEE COST SHARING.

- (1) Persons who are enrolled in TennCare Standard have premium obligations corresponding to their family size and income. No new premiums will be charged for periods of time from December 1, 2007, forward, notwithstanding anything in these rules to the contrary. The premium schedule in effect prior to December 1, 2007, is shown below:

Percentage of Poverty	0% - 99%	100% - 149%	150% - 199%	200% - 249%	250% - 299%
Monthly Premium (Individual)	\$0	\$20	\$35	\$100	\$150
Monthly Premium (Family of 2 or more)	\$0	\$40	\$70	\$250	\$375

Percentage of Poverty	300%—349%	350%—399%	400%—499%	500%—599%	600% and over
Monthly Premium (Individual)	\$200	\$250	\$350	\$450	\$550
Monthly Premium (Family of 2 or more)	\$500	\$625	\$875	\$1,125	\$1,375

(2) ~~Premium Requirements.~~

(a) ~~No persons enrolled in TennCare Standard will have premium obligations for periods of time from December 1, 2007, forward. Enrollees who had premium obligations prior to December 1, 2007, and who have not made all required premium payments are not relieved of the responsibility for making these past due payments to TennCare.~~

(b) ~~At such time as (1) the enrollee has received at least two premium statements advising him of his arrearage AND (2) he is 60 days in arrears on his premium payments, coverage may be terminated for non-payment of premiums.~~

1. ~~Enrollees who are in arrears two months in premium payments will be sent a notice of delinquency (a "demand letter"). The notice will identify the specific payments, including month and amount, that are past due. The demand letter will serve as notice to the individual that he will be terminated from TennCare Standard unless he pays the amount due within 30 days. The enrollee has the right to appeal that he is in fact current with his/her payments or that the premium amounts being charged are not the premium amounts he has been assigned.~~

2. ~~If at least partial payment is received by the Bureau of TennCare within 30 days after the date of the demand letter, the enrollee will no longer be 60 days in arrears, and coverage will continue without interruption. "Partial payment" will be payment sufficient to make the enrollee no longer 60 days in arrears. However, remaining past due amounts will continue to accrue. If the enrollee is again 60 days in arrears when the next cycle of demand letters is processed, the enrollee will again receive a demand letter and may subsequently be terminated in accordance with these rules.~~

3. ~~If an enrollee files an appeal in response to his demand letter by the 30th day following the date of the notice, coverage will not be terminated on the 30th day, pending resolution of the appeal. The premium appeal will be processed by DHS in accordance with its rules at 1240-05.~~

4. ~~If the enrollee does not pay at least a partial payment or file an appeal by the 30th day following the demand letter, his TennCare Standard coverage will be terminated. A termination notice will be sent with due process appeal rights. The date of termination is the date of the termination notice. An enrollee may appeal his notice of termination, but he is not entitled to continuation of benefits during the appeal. If the appeal is decided in his favor, he will be reinstated retroactively to the date of termination.~~

(3) ~~There are no deductibles or out-of-pocket maximums in TennCare Standard.~~

(4) ~~Copayments.~~

(a) ~~TennCare Standard enrollees whose income is equal to or greater than 100% of poverty shall pay copayments for services other than preventive services. Preventive services are identified in Rule 1200-13-14.04(5).~~

(b) ~~Copayment amounts are as shown below:~~

Benefit	Copayment if income is 0%-99% of poverty	Copayment if income is 100%-199% of poverty	Copayment if income is 200% of poverty or above
Hospital emergency room use for non-emergency services	\$0	\$10 (waived if admitted)	\$50 (waived if admitted)
Primary care provider services other than preventive care	\$0	\$5	\$10
Community Mental Health Agency services other than preventive care	\$0	\$5	\$10
Physician specialists (including Psychiatrists)	\$0	\$5	\$20
Prescription or refill (see (f) below)	\$0	\$3 for covered branded prescription; \$0 for covered generics	\$3 for covered branded prescription; \$0 for covered generics
Inpatient hospital admission	\$0	\$5 (waived if readmitted within 48 hours for the same episode)	\$100 (waived if readmitted within 48 hours for the same episode)

- (c) ~~Managed care contractors participating in the TennCare program shall be specifically prohibited from waiving, or discouraging TennCare enrollees from paying, the amounts described in this paragraph.~~
- (d) ~~Providers may not refuse to deliver a covered service to an enrollee because of the enrollee's failure or inability to make his copay.~~
- (e) ~~Enrollees who receive financial settlements, awards or judgments shall have their income levels adjusted to reflect the amount of the settlements, awards or judgments and may be assessed additional cost sharing obligations commensurate with their adjusted income level.~~
- (f) ~~Pharmacy and psychiatric pharmacy copayments.~~
1. ~~All TennCare Standard enrollees with incomes at or above poverty who receive pharmacy services have nominal copayments for the services. The copays are \$3.00 for each covered branded drug and \$0 for each covered generic drug. Drugs which exceed the limit of five (5) prescriptions or refills per month per enrollee are not covered unless they are on the Automatic Exception List. Family planning drugs and emergency services are exempt from copay.~~
 2. ~~The following groups (adults and children) are exempt from pharmacy copays:~~
 - (i) ~~Individuals receiving hospice services who provide verbal or written notification of such to the pharmacy provider at the point of service;~~
 - (ii) ~~Individuals who are pregnant who provide verbal or written notification of such to the pharmacy provider at the point of service; and~~
 - (iii) ~~Individuals who are receiving services in the CHOICES program, an Intermediate Care Facility for persons with Mental Retardation (or pursuant to federal law, Intermediate Care Facility for the Mentally Retarded), or a Home and Community Based Services waiver.~~

- ~~3. The seventy-two (72) hour emergency supply of a medication in an emergency situation, as described in rule 1200-13-14-.11, shall not be subject to the pharmacy copayment requirement.~~

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

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 10/24/2012 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/21/12

Rulemaking Hearing(s) Conducted on: (add more dates). 10/10/12



Date: 10/24/2012

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: 10/24/12

Notary Public Signature: Cheryl D Kline

My commission expires on: 8/23/16

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.

[Handwritten Signature]

Robert E. Cooper, Jr.

Attorney General and Reporter

1-14-13

Date

Department of State Use Only

Filed with the Department of State on: 1/15/13

Effective on: 4/15/13

[Handwritten Signature]

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Third Party Resources under TennCare Medicaid

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 71-5-105

EFFECTIVE DATES: April 15, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule preserves language in existing TennCare rules that are being replaced because much of the content is outdated.

This rule points out that upon enrollment in TennCare Medicaid, enrollees are obligated to assign any rights to third party insurance benefits to the Bureau of TennCare. The rule also points out that the Bureau shall use direct billing when it is determined that a previously paid service may have been covered by a third party.

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 this rule.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

The rule is not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

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For Department of State Use Only

Sequence Number: 01-12-13
Rule ID(s): 5361
File Date: 1/15/13
Effective Date: 4/15/13

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):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.09	Third Party Resources

(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>)

Rule 1200-13-13-.09 Third Party Resources is amended by adding new Paragraphs (8), (9) and (10) following existing Paragraph (7) as follows:

- (8) Upon enrollment in TennCare Medicaid or TennCare Standard an individual assigns to the Bureau any rights to third party insurance benefits to which the individual may be entitled.
- (9) Upon accepting medical assistance, an enrollee in TennCare Medicaid or TennCare Standard shall be deemed to have made an assignment to the Bureau of the right to third party insurance benefits to which the enrollee may be entitled.
- (10) The Bureau shall utilize direct billing when it is determined that a previously paid service may have been covered by a third party.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

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 10/09/2012 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/08/12

Rulemaking Hearing(s) Conducted on: (add more dates). 09/27/12

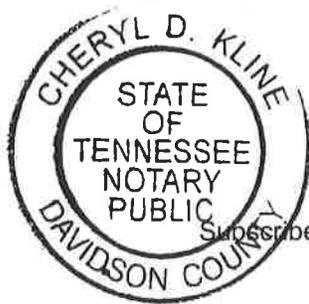
Date: 10/9/2012

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 10/9/2012

Notary Public Signature: [Handwritten Signature: Cheryl D. Kline]

My commission expires on: 8/23/16

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.

[Handwritten Signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

1-14-13

Date

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Filed with the Department of State on: 1/15/13

Effective on: 4/15/13

[Handwritten Signature]

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Third Party Resources under TennCare Standard

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 71-5-105

EFFECTIVE DATES: April 15, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule preserves language in existing TennCare rules that are being replaced because much of the content is outdated.

This rule points out that upon enrollment in TennCare Standard, enrollees are obligated to assign any rights to third party insurance benefits to the Bureau of TennCare. The rule also points out that the Bureau shall use direct billing when it is determined that a previously paid service may have been covered by a third party.

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 this rule.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

The rule is not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

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Sequence Number: 01-13-13
 Rule ID(s): 5362
 File Date: 11/5/13
 Effective Date: 4/15/13

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):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.09	Third Party Resources

(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>)

Rule 1200-13-14-.09 Third Party Resources is amended by adding new Paragraphs (7), (8) and (9) following existing Paragraph (6) as follows:

- (7) Upon enrollment in TennCare Medicaid or TennCare Standard an individual assigns to the Bureau any rights to third party insurance benefits to which the individual may be entitled.
- (8) Upon accepting medical assistance, an enrollee in TennCare Medicaid or TennCare Standard shall be deemed to have made an assignment to the Bureau of the right to third party insurance benefits to which the enrollee may be entitled.
- (9) The Bureau shall utilize direct billing when it is determined that a previously paid service may have been covered by a third party.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

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 10/09/2012 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/08/12

Rulemaking Hearing(s) Conducted on: (add more dates). 09/27/12

Date: 10/9/2012

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 10/9/2012

Notary Public Signature: Cheryl D Kline

My commission expires on: 8/23/16

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.

[Handwritten Signature]

Robert E. Cooper, Jr.

Attorney General and Reporter

1-14-13

Date

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Filed with the Department of State on: 1/15/13

Effective on: 4/15/13

[Handwritten Signature]

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Tennessee Medicaid False Claims Act

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 71-5-105

EFFECTIVE DATES: April 15, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rules clarify that for the purpose of audits, statistically valid random sampling is used to determine actual damages to be recovered under the Tennessee Medicaid False Claims Act.

These rules reflect a statutory change that increased the maximum amount of actual damages the Bureau of TennCare can recover under the Tennessee Medicaid False Claims Act from \$10,000 to \$25,000.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

The rules are not anticipated to have an impact on local governments.

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Sequence Number: 21-14-13
Rule ID(s): 5363
File Date: 1/15/13
Effective Date: 4/15/13

Rulemaking Hearing Rule(s) Filing Form

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Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
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Revision Type (check all that apply):

- 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
1200-13-18	TennCare Administrative Actions and Provider Appeals
Rule Number	Rule Title
1200-13-18-.02	Definitions
1200-13-18-.03	Administrative Action for Recovery Under the Tennessee Medicaid False Claims Act

(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>)

Paragraph (4) of Rule 1200-13-18-.02 Definitions is amended by adding a new sentence to the end of the Paragraph so that as amended Paragraph (4) shall read as follows:

- (4) Audit. The systematic process of objectively obtaining and evaluating evidence regarding assertions about economic actions and events to ascertain the degree of correspondence between those assertions and established criteria and communicating the results to interested parties. Audits are conducted in accordance with AICPA (American Institute of Certified Public Accountants) auditing or attestation engagement standards. For purposes of this chapter, audits are conducted of health care provider records, financial information, and statistical data according to principles of cost reimbursement to determine the reasonableness and allowance of costs reimbursable under the Program. Statistically valid random sampling is used to determine actual damages.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

Paragraph (6) of Rule 1200-13-18-.03 Administrative Action for Recovery Under the Tennessee Medicaid False Claims Act is amended by deleting the words, symbols and numbers "ten thousand dollars (\$10,000)" and replacing them with the words, symbols and numbers "twenty-five thousand dollars (\$25,000)" so that as amended Paragraph (6) shall read as follows:

- (6) The Bureau may recover actual damages in an amount no greater than ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000). The amount of actual damages may be based upon a statistically valid random sample utilizing a software tool such as RAT-STATS.

Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105, 71-5-109 and 71-5-183.

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 10/09/2012 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/08/12

Rulemaking Hearing(s) Conducted on: (add more dates), 09/27/12

Date: 10/9/2012

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 10/9/2012

Notary Public Signature: [Handwritten Signature: Cheryl D. Kline]

My commission expires on: 8/23/16

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.

[Handwritten Signature]

Robert E. Cooper, Jr.

Attorney General and Reporter

1-14-13

Date

Department of State Use Only

Filed with the Department of State on: 1/15/13

Effective on: 4/15/13

[Handwritten Signature]

Tre Hargett
Secretary of State

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