

G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Tennessee Private Probation Services Council

DIVISION: Regulatory Boards Division, Department of Commerce and Insurance

SUBJECTS: Expedited Process for Registration with Council for Certain Applicants

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-3-1304 and 16-3-909

EFFECTIVE DATES: December 4, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking provides a process for expedited registration for applicants who are certain military service members or spouses of military service members as required by Tennessee Code Annotated, Section 4-3-1304(d)-(f).

Regulatory Flexibility Addendum

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

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

The proposed rule is a registration process that will apply to all individual or sole proprietor registration applicants equally, if the individual applicants meet the requirements. Therefore, businesses will not have any costs associated with this rule.

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

There are no projected reporting, recordkeeping, or administrative costs for small businesses associated with this rule.

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

This rule has no projected impact on small businesses or consumers.

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

The rule will ease the burden of applying for a license or registration for those applicants who meet the requirements. There are no less burdensome, intrusive, or costly methods to achieve the purpose of the rule.

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

There are no federal counterparts to this rule. Public Chapter 122 requires all regulatory boards to adopt rules expediting licenses for military applicants and applicants with spouses in the military. The Boards are adopting rules substantially similar to this proposed rule.

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

This rule does not require small businesses to change their operations. Therefore, there is no need for an exemption.

Impact on Local Governments

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

The proposed rules have no projected impact on local governments

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Sequence Number: 10-11-14
 Rule ID(s): _____
 File Date: 10/16/14
 Effective Date: 10/16/14

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	Tennessee Private Probation Services Council
Division:	Department of Commerce and Insurance, Regulatory Boards Division
Contact Person:	Ellery Richardson
Address:	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower, 5 th Floor Nashville, TN 37243
Zip:	37243
Phone:	615-741-8689
Email:	Ellery.Richardson@tn.gov

Type of Action on Rule:

 Stay of Effective Date of Rules

Rule Filing Date: (mm/dd/yy)
 Rule Original Effective Date: (mm/dd/yy)
 Length of Stay (not to exceed 75 days): _____
 New Effective Date of Rule Filing: (mm/dd/yy)

 Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)
 Stay Effective Date: (mm/dd/yy)
 New Effective Date of Rule Filing: (mm/dd/yy)

 X **Notice of Withdrawal of Rules**

Rule Filing Date: 09/05/14
 Rule Effective Date: 12/04/14

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

Chapter Number	Chapter Title
1177-01	Tennessee Private Probation Services Council Application, Registration, and Fee Requirements
Rule Number	Rule Title
1177-01-.03	Registration with Council



Date: ^{2R} 10-9-2014

Signature: Ellery M. Richardson

Name of Officer: Ellery Richardson

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 10/9/14

Notary Public Signature: Margaret Williams

My commission expires on: 11/6/17

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Filed with the Department of State on: 10/16/14

Tre Hargett
Tre Hargett
Secretary of State

2014 OCT 16 AM 9:11
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~~2014 OCT 10 PM 4:14~~

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Sequence Number: 09-12-14
 Rule ID(s): 5797
 File Date: 9/5/14
 Effective Date: 12/4/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Private Probation Services Council
Division:	Department of Commerce and Insurance, Regulatory Boards Division
Contact Person:	Ellery Richardson
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Zip:	37243
Phone:	615-741-8689
Email:	Ellery.richardson@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
1177-01	Tennessee Private Probation Services Council Application, Registration, and Fee Requirements
Rule Number	Rule Title
1177-01-.03	Registration with Council

Substance of Proposed Rules
 Chapter 1177-01
 Tennessee Private Probation Services Council
 Application, Registration, and Fee Requirements

Amendments

Rule 1177-01-.03 [Registration with Council] is amended by adding new paragraphs (5) and (6) so that, as amended, the rule shall read as follows:

1177-01-.03 – Registration with Council

- (1) No private entity may provide probation services in this state unless it has registered with and is approved by the Council. Every private entity proposing to provide probation services in this state shall submit an application on a form provided by the Council. The application must include all information and documents required by the Council, and must be truthful, accurate and complete. The applying entity must:
- (a) Demonstrate the reasonable ability of the entity to furnish continuous probation service in compliance with applicable statutes, rules and uniform contract requirements;
 - (b) Describe the extent of services to be rendered by the entity;
 - (c) Demonstrate that staff qualifications meet or exceed applicable statutory and rule requirements;
 - (d) Submit sworn criminal record reports on each employee of, or volunteer for, the entity;
 - (e) Submit written policies and procedures for staff training;
 - (f) Submit proof of insurance and performance bond as required by applicable statutes and rules;
 - (g) Describe staffing levels and provide written standards of supervision, including frequency and type of contacts with probationers;
 - (h) Submit written procedures for handling court-ordered fines, fees, restitution, and community service;
 - (i) Submit a written policy for handling indigent offenders;
 - (j) Submit written procedures and policies to follow to obtain evidence to present to the court to revoke an offender's probation;
 - (k) Describe reporting and record keeping procedures;
 - (l) Describe default and contract termination procedures;
 - (m) Describe procedures for the transfer of supervision of probationers from the entity to another private entity or to a public probation provider;
 - (n) Submit a schedule of the range of all probation fees and charges paid by probationers supervised by the entity, and a listing of all probation fees and charges paid by probationers outside the range;
 - (o) Provide names of employees who will supervise probationers, describe their credentials and their position with the entity.
- (2) The application fee shall be one hundred dollars (\$100.00) which must be submitted at the time of initial application and is not refundable. The renewal fee shall be one hundred dollars (\$100.00).
- (3) Upon approval, the registration fee with the Council shall be one hundred dollars (\$100.00). The private entity shall pay an additional registration fee of one hundred dollars (\$100.00) for each second or subsequent judicial district in which it provides probation supervision in Tennessee.
- (4) The registration shall list all branch offices on the registration. The registrant shall submit the addresses of all branch offices to the Council that open or close within thirty (30) days of the event.
- (5)
- (a) If an applicant for registration is a sole proprietor meeting the qualifications of T.C.A. § 4-3-1304(d), who was registered to provide private probation services in another state but fails to meet some of the requirements for registration in Tennessee, then the Council may issue a

temporary permit for a period of six (6) months authorizing the applicant to provide private probation services in this state in order for the applicant to meet the requirements for registration in Tennessee.

- (b) Upon expiration of a temporary permit, a new temporary permit may be issued upon the filing of a new application. However, a second or subsequent permit may not be issued to the same individual except for good cause shown.
 - (c) Issuance of a temporary permit is solely at the discretion of the Council. No such permit will be issued to any person who the Council determines could not reasonably meet the requirements for registration in Tennessee within the period of the temporary permit.
 - (d) The application fee for a temporary permit shall be one hundred dollars (\$100.00), which is not refundable and must be submitted at the time of the application for the temporary permit. An applicant shall not be required to pay a new application fee for any application for a temporary permit or application for registration within one hundred and eighty (180) days of the expiration of a temporary permit issued by the Council.
 - (e) Upon approval, the temporary permit fee shall be fifty dollars (\$50.00). The applicant shall pay an additional temporary permit fee of fifty dollars (\$50.00) for each second or subsequent judicial district in which it provides probation supervision in Tennessee.
 - (f) The holder of a temporary permit shall comply with all laws and rules regarding the provision of private probation services in Tennessee. This includes, but is not limited to, complying with the reporting requirements of rule 1177-01-.05 and payment of the quarterly provider fee pursuant to rule 1177-01-.08.
 - (g) The Council may suspend or revoke a previously-issued temporary permit if a registration to provide private probation services in another state is suspended, revoked, denied, becomes invalid, or is not renewed at any time while an individual holds a temporary permit.
- (6) If an applicant for registration is a sole proprietor meeting the qualifications of T.C.A. § 4-3-1304(d), who was registered to provide private probation services in another state and substantially meets all requirements for registration in Tennessee, then the Council may issue a registration after receipt of a completed application, payment of all fees, and any other proof the Council may require to show that the applicant substantially meets all requirements for registration in Tennessee.

Authority: T.C.A. §§ 4-3-1304(d), 4-3-1304(e), 4-3-1304(f), 16-3-903, 16-3-909, and 16-3-910.

* 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)
Robert O. Starkey, III	X				
Anita L. Taylor	X				
Wayne E. Hinkle	X				
W.T. Patterson	X				
Jane Gray Sowell	X				
David R. Neal	X				
Robert P. Helms				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) Tennessee State Board of Funeral Directors and Embalmers on 05/06/2014 (date), 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: 7-22-14

Signature: Elley Richardson

Name of Officer: Elley Richardson

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 7/22/14

Notary Public Signature: Margaret Williams

My commission expires on: 11/6/17

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

Robert E. Cooper, Jr.
 Attorney General and Reporter

8-13-14
 Date

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Filed with the Department of State on: 9/5/14

Effective on: 12/4/14

Tre Hargett

Tre Hargett
 Secretary of State

RDA 1693

SS-7038 (September 2011)

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SECRETARY OF STATE
 OFFICE OF STATE

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Board of Medical Examiners

SUBJECT: General Rules Governing the Practice of Medicine

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 63-6-101, 63-6-207, 63-6-233 and 63-1-402.

EFFECTIVE DATES: December 2, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The Board of Medical Examiners has promulgated these rule amendments to comply with Public Chapter 430 of 2013. The rule increases the original continuing medical education hours from one (1) hour of continuing education to be in prescribing practices to two (2).

Public Hearing Comments

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

There were no public comments, either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process 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 extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

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

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

These rules exhibit clarity, conciseness, and lack of ambiguity.

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

These rule amendments do not create flexible compliance and/or reporting requirements for small businesses, insomuch as the rule amendment is required to comply with Public Chapter 430 (108th Tennessee General Assembly). Notably, the rule amendments do not change the total amount of continuing medical education hours required by licensees.

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

The reporting requirements established in these proposed rules are uniform for all licensed physicians and are as friendly and flexible as possible while achieving the Board's mission to protect the public and ensure competent licensees.

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

Compliance requirements contained in the rules are the same for all licensed physicians.

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

These rules do not establish performance, design, or operational standards.

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

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: *Board of Medical Examiners*

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

All medical doctors holding a current Tennessee license will be subject to the proposed rule amendments. The rule amendments are cost neutral as they do not increase the total required hours of CME. This rule amendment is required to comply with state law and would affect approximately 12,000 licensees.

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

The rule amendments do not affect the reporting requirements or other administrative costs for compliance. Medical doctors are already required to report and retain for compliance documentation of completion of all continuing medical education hours, and this rule amendment does not alter those requirements.

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

This proposed rule amendment should have little effect on small businesses. Although there is an increased requirement that two of the forty CME hours must be related to the prescribing of controlled substances, the number of CME hour's remains at forty hours biennially.

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

These rule amendments are not burdensome, intrusive, or costly. The proposed rules are required to comply with state law.

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

Federal: The United States Code Annotated has requirements for military physicians to complete applicable continuing medical education requirements.

State: Almost all health related boards have some type of continuing education requirements.

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

These rule amendments may not provide exemptions for small businesses as the rule amendments are required to comply with state law.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected financial impact on local governments."

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

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Sequence Number: 09-04-14
 Rule ID(s): 5795
 File Date: 9/2/14
 Effective Date: 12/2/14

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Department of Health
Division:	Board of Medical Examiners
Contact Person:	Andrea Huddleston, Deputy General Counsel
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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
0880-02	General Rules and Regulations Governing the Practice of Medicine
Rule Number	Rule Title
0880-02-.01	Definitions
0880-02-.19	Continuing Medical Education

**RULES
OF
TENNESSEE BOARD OF MEDICAL EXAMINERS**

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**CHAPTER 0880-02
GENERAL RULES AND REGULATIONS GOVERNING THE PRACTICE OF MEDICINE**

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0880-02-.01 DEFINITIONS. As used in this Chapter of Rules the following terms and acronyms shall have the following meanings ascribed to them:

June, 2010 (Revised)

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- (1) Board - The Tennessee Board of Medical Examiners.
- (2) Board's Administrative Office - ~~The office of the administrator assigned to the Tennessee Board of Medical Examiners located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.~~ The office of the administrator assigned to the Tennessee Board of Medical Examiners and housed within the Division.
- (3) Board Designee - Any person who has received written delegation of authority from the Board to perform Board functions subject to review and ratification by the full Board where provided by these rules.
- (4) Derogatory Information - As this term is used in T.C.A. § 63-6-210, shall mean wherever it appears in these rules any communication or information received during the licensure, renewal or reinstatement process which indicates either legal, ethical, competency, mental or physical problems which reflect in any manner not inconsistent with the Americans With Disabilities Act on the individuals fitness or competency to safely practice or continuing to safely practice medicine in Tennessee without restriction. Such communications or information include but are not limited to, conviction of a crime, malpractice lawsuits, loss or restriction of hospital privileges, licensure discipline in another state or country, previous licensure action either formal or informal in this state, ongoing investigation or prosecution of a disciplinary action in this or any other state or country and any physical/medical condition which is not otherwise ameliorated by compliance with physician orders, treatment program requirements or voluntary restrictions of the individual in compliance with the Americans With Disabilities Act.
- (5) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (6) E.C.F.M.G. - The Educational Committee for Foreign Medical Graduates or its successor organization.
- (7) FCVS - The Federation Credentials Verification Service which is a service offered by the Federation of State Medical Boards that provides primary source identification and verification of physician core credentials as required in licensure applications by the states.
- (8) FLEX - The Federation Licensing Examination I -II.
- (9) Formulary - A list of legend and non-legend drugs arranged by therapeutic categories, included in the protocols, that are approved to be prescribed and/or issued by a physician assistant, which may include controlled substances listed in Schedules II, III, IV and V of the Tennessee Code Annotated, Title 39, Chapter 17, Part 4.
- (10) Licensee - Any person who has been lawfully issued a license to practice medicine in Tennessee by the Board.

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THE PRACTICE OF MEDICINE

(Rule 0880-02-.01, continued)

- (11) N.B.M.E. - The National Board of Medical Examiners examination.
- (12) Physician Assistant - A person who is licensed to practice as a physician assistant in Tennessee pursuant to T.C.A. § 63-19-105
- (13) Protocols - Written guidelines for medical management developed jointly by the supervising physician and the physician assistant.
- (14) Supervising Physician - A licensed and actively practicing physician who has been identified as accepting responsibility for supervising a physician assistant.
- (15) U.S.M.L.E. - The United States Medical Licensing Examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and Public Chapter 33, Public Acts of 1999.

Administrative History: Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.

0880-02-.02 FEES.

- (1) The fees authorized by the Tennessee Medical Practice Act (T.C.A. §§63-6-101 through 63-6-104 and T.C.A. §§63-6-201 through 63-6-227) and other applicable statutes to be established by the Board are established as follows:
 - (a) Application Fee - a non refundable fee to be paid by all licensure applicants regardless of the type of license applied for. It must be paid each time an application for licensure is filed.\$400.00
 - (b) Examination Fee - This fee is to be paid each time the USMLE Step 3 examination is taken.\$100.00

THE PRACTICE OF MEDICINE

(Rule 0880-02-.18, continued)

mutually developed and agreed upon by the physician assistant and the supervising physician.

- (14) A licensed physician who supervises the services of a physician assistant in a manner that is inconsistent with the Tennessee Medical Practice Act or these rules shall be subject to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, 63-19-106, and 63-19-107, and Public Chapter 33, Public Acts of 1999. **Administrative History:** Original rule filed April 10, 2000; effective June 24, 2000. Amendment filed March 9, 2001; effective May 23, 2001.

0880-02-.19 CONTINUING MEDICAL EDUCATION.

(1) Hours Required, Waiver, and Exemptions

- (a) All licensees must complete forty (40) hours of continuing medical education courses during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.

~~(b) At least one (1) of the forty (40) required hours shall be a course designed specifically to address prescribing practices.~~

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(b) Unless exempt under T.C.A. 63-1-402(c), all licensees holding a current Tennessee license shall complete a minimum of two (2) of the forty (40) required hours of continuing education related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.

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- (c) The Board approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
- (d) Waiver - The Board may waive the requirements of these rules in cases where illness, disability, or other undue hardship beyond the control of the licensee prevents a licensee from complying. Requests for waivers must be sent in writing to the Board prior to the expiration of the calendar year in which the continuing medical education is due.
- (e) Exemptions:
1. Anyone whose license is in the retired or inactive status pursuant to rule 0880-02-10 (1) and/or (2) is exempt from the requirements of these continuing medical education rules.

THE PRACTICE OF MEDICINE

(Rule 0880-02-.19, continued)

2. Anyone who obtains licensure in the same calendar year as successful completion of the USMLE Step 3 is exempt from the provisions of these continuing medical education rules but only for the calendar year in which licensure is issued.
- (2) Proof of Compliance - All licensees must retain independent documentation of completion of all continuing medical education hours and compliance with the provisions of these rules.
 - (a) This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing medical education was acquired.
 - (b) This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process.
 - (c) Documentation verifying the licensee's completion of the continuing medical education hours may consist of any one (1) or more of the following:
 1. Original certificates or photocopies of original certificates from course providers verifying the licensee's attendance and/or completion of hours.
 2. Original letters or photocopies of original letters from course providers verifying the licensee's attendance and/or completion of hours.
 3. Documentation from the American Academy of Family Physicians (hereafter AAFP) indicating acquired continuing medical education hours.
 - (3) Acceptable Continuing Education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education hours must comply with both of the following:
 - (a) They must be sponsored by an organization accredited as a sponsor of continuing medical education by either the Accrediting Council for Continuing Medical Education (ACCME) or by a state medical association recognized by the ACCME as an intrastate accreditor of sponsors of continuing medical education; and
 - (b) They must be designated or certified by the accrediting sponsor as meeting the criteria for Category 1 continuing medical education credit of the American Medical Association's Physician's Recognition Program; or be designated by the AAFP as meeting the criteria of the AAFP's prescribed credit; or
 - (c) If a licensee provides disciplinary case review at the request of the Department, and submits a written report of his or her conclusions regarding such disciplinary case review, the reviewing licensee shall receive one (1) hour of continuing medical education credit for each hour spent reviewing the materials and preparing the report. A maximum of ten (10) hours credit shall be awarded for reviewing disciplinary case materials during the two (2) calendar years (January 1 – December 31) that precede the licensure renewal year.
 - (4) Violations and Disciplinary Orders

THE PRACTICE OF MEDICINE

(Rule 0880-02-.19, continued)

- (a) Any licensee who fails to obtain the required continuing medical education hours or otherwise comply with the provisions of these rules will be subject to disciplinary action.
- (b) Continuing medical education hours obtained as a result of compliance with the terms of Board Orders in any disciplinary action or obtained pursuant to licensure or renewal restriction/conditions mandated by the Board shall not be credited toward the continuing medical education hours required to be obtained in any calendar year.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, and 63-6-233. **Administrative History:** Original rule filed September 5, 2002; effective November 19, 2002. Amendment filed November 23, 2005; effective February 6, 2006. Amendment filed April 17, 2007; effective July 1, 2007.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	x				
Subhi D. Ali, M.D.	x				
Dennis Higdon, MD	x				
Michael John Baron, M.D	x				
Jeff P. Lawrence, MD	x				
Neal Beckford, M.D.	x				
Keith Lovelady, M.D	x				
Clinton A. Musil, Jr., MD	x				
Patricia Eller	x				
Barbara Outhier	x				
Nina Yeiser	x				
W. Reeves Johnson, Jr. MD	x				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners (board/commission/ other authority) on 01/28/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/08/13 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 01/28/14 (mm/dd/yy)

Date: 2-7-14

Signature: _____

Name of Officer: Andrea Huddleston

Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 2-7-14

Notary Public Signatures: Joyanne McLeod

My commission expires on: April 19, 2017

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

RE Cooper
 Robert E. Cooper, Jr.
 Attorney General and Reporter
8-28-14

Department of State Use Only

Filed with the Department of State on: 9/3/14

Effective on: 12/2/14

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2014 SEP -3 PM 4:29
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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Tennessee Corrections Institute

SUBJECT: Criteria for Waivers

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 41-4-144 and 41-7-106

EFFECTIVE DATES: December 16, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This new amendment incorporates language from the Americans with Disabilities Act and includes provisions to allow waivers for the minimum qualifications for jail administrators, workhouse administrators, jailers, corrections officers, and guards in a county jail.

Public Hearing Comments

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

No written or oral public comments were made during or submitted for the hearing.

Regulatory Flexibility Addendum

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

The rules are not anticipated to affect small businesses.

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

The rules will not impact any small businesses.

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

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

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

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

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

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

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

The rules are based on Public Chapter 173 of the 2013 Acts which was based, in part, on 42 U.S. Code 12101, et seq. (Americans with Disabilities Act- ADA).

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

Since the rules will not impact small businesses, there are no exemptions for small businesses to the requirements contained in the rules.

Impact on Local Governments

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

The rules may impact local governments.

5

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For Department of State Use Only

Sequence Number: 09-16-14
Rule ID(s): 5798
File Date: 9/17/2014
Effective Date: 12/16/2014

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission: Department of Commerce and Insurance
Division: Tennessee Corrections Institute
Contact Person: Joseph Underwood, Chief Counsel of Fire Prevention & Law Enforcement
Address: 500 James Robertson Parkway, 8th Floor, Davy Crockett Tower
Zip: 37243
Phone: 615-741-3899
Email: Joseph.Underwood@tn.gov

Revision Type (check all that apply):

- 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
1400-04	Criteria for Waivers
Rule Number	Rule Title
1400-04-.01	Submission of Waiver Request
1400-04-.02	Waiver of Pre-Employment Requirements

(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>)

Substance of Proposed Rules

Chapter 1400-04

Criteria for Waivers

1400-04-.01 Submission of Waiver Request. A request for waiver of pre-employment requirements must be submitted by the prospective employing agency prior to the employment of the person requiring the waiver. Requests must be submitted no later than thirty (30) days prior to the next scheduled meeting of the Board of Control. Request for waiver filed/submitted by an individual will not be accepted by the Board of Control. The requesting department shall be represented by its designee before the Board of Control. Once a waiver has been granted for a previous pre-employment requirement for a particular employee, that requirement shall be considered waived for future applications for certification.

Authority: T.C.A. §§ 41-4-144 and 41-7-106.

1400-04-.02 Waiver of Pre-employment Requirements. A waiver of pre-employment requirements may be granted under the following circumstances:

- (1) No person may be employed as a jail or workhouse administrator, jailer, corrections officer or guard in any county jail or workhouse, who requires a waiver under this section, until such waiver is granted.
 - (a) Military History - The Board of Control may waive pre-employment requirements relating to the military history on an individual basis and depending on the circumstances.
 1. Waivers may be granted from pre-employment requirements for the following separations from military service:
 - (i) Entry Level Separation;
 - (ii) Uncharacterized Discharge; or,
 - (iii) General Discharge under Honorable Conditions.
 2. Waivers shall not be granted from pre-employment requirements for the following separation from military service:
 - (i) Dishonorable Discharge or Dismissal;
 - (ii) Bad Conduct Discharge; or,
 - (iii) General Discharge under Other Than Honorable Conditions.
 - (b) Criminal Activity - The Board of Control may consider a waiver from pre-employment requirements relating to criminal activity on an individual basis and depending on the circumstances.
 1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any misdemeanor charge or misdemeanor violation of any federal or state law or city ordinance (excluding domestic violence) relating to force, violence, theft, dishonesty, gambling, liquor, controlled substances or controlled substances analogues (as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4).
 2. Waivers shall not be granted if a person has been convicted of, pleaded guilty to or entered a plea of nolo contendere to domestic assault or to a felony.

3. The employing agency requesting waiver must present a copy of the final court disposition of the case.
 4. Some of the factors to be considered when determining whether to grant a waiver shall be:
 - (i) Amount of time since the offense;
 - (ii) Amount of time since completion of the sentence;
 - (iii) Type, circumstances and severity of the offense;
 - (iv) Applicant's activities since the offense; and
 - (v) Applicant's ability to carry a firearm pursuant to federal and state law.
- (c) Mental Impairment – A waiver shall not be granted from pre-employment requirements for a mental impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

Authority: T.C.A. §§ 41-4-144 and 41-7-106.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bill Oldham	X				
Deborah Newman				X	
Armando Fontes				X	
Derrick Schofield	X				
Brian McCormack	X				
Dan Hughes				X	
Jeff Brown	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Corrections Institute Board of Control on 06/04/2014 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/15/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 06/04/2014

Date: 6/13/2014

Signature: *Joseph Underwood*

Name of Officer: Joseph Underwood

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



Subscribed and sworn to before me on: June 13, 2014

Notary Public Signature: *Ann Jones*

My commission expires on: June 21, 2016

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

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
9-5-14
 Date

Department of State Use Only

Filed with the Department of State on: 9/17/2014

Effective on: 12/16/2014

Tre Hargett
 Tre Hargett
 Secretary of State

SECRETARY OF STATE
 OFFICE OF
 2014 SEP 17 PM 1:25

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Labor and Workforce Development

DIVISION: Occupational Safety and Health

SUBJECT: Occupational Safety and Health Standards for General Industry, Construction and Agriculture

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-3-1411, 50-3-103 and 50-3-201.

EFFECTIVE DATES: December 18, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: These rules are amended to adopt and reference the latest occupational safety and health standards and exceptions for general industries, construction and agriculture, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register. Tennessee generally adopts the federal standard relating to occupational safety and health.

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.

An economic impact statement regarding the amendments in this rule proposal is not required under the provisions of the Regulatory Flexibility Act of 2007. As stated in Section 6 of Public Chapter 464, "This part shall not apply to rules that are adopted on an emergency or public necessity basis under Title 4, Chapter 5, Part 2, that are federally mandated, or that substantially codify existing state or federal law." Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the Tennessee Occupational Safety and Health State Plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. The plan specifies that the state of Tennessee will adopt the federal standards or an equivalent state requirement within six (6) months of the standard's promulgation by federal OSHA. In addition, T.C.A. §50-3-201 authorizes the Commissioner of Labor and Workforce Development to adopt either state or federal occupational safety and health standards.

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 does not have a projected impact on local governments.

7

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For Department of State Use Only

Sequence Number: 09-19-14
Rule ID(s): 5800-5802
File Date: 9/19/14
Effective Date: 12/18/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Division of Occupational Safety and Health
Contact Person:	Larry Hunt
Address:	220 French Landing Drive
Zip:	37243-1002
Phone:	(615) 741-7036
Email:	Larry.Hunt@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
0800-01-01	Occupational Safety and Health Standards for General Industry
Rule Number	Rule Title
0800-01-01-.06	Adoption and Citation of Federal Standards

Chapter Number	Chapter Title
0800-01-06	Occupational Safety and Health Standards for Construction
Rule Number	Rule Title
0800-01-06-.02	Adoption and Citation of Federal Standards

Chapter Number	Chapter Title
0800-01-07	Occupational Safety and Health Standards for Agriculture
Rule Number	Rule Title
0800-01-07-.01	Adoption and Citation of Federal Standards
0800-01-07-.02	Exceptions to Adoption of Federal Standards

Proposed Amendments with Changes Red-Lined

Chapter 0800-01-01

Rule 0800-01-01-.06 Amended

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2014" to "January 1, 2015".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of ~~July 1, 2014~~ except as provided in Rule 0800-01-01-.07 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2015 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06

Rule 0800-01-06-.02 Amended

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2014" to "January 1, 2015".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of ~~July 1, 2014~~ except as provided in Rule 0800-01-06-.03 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2015 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

Chapter 0800-01-07

Rule 0800-01-07-.01 Amended

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2014" to "January 1, 2015".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of ~~July 1, 2014~~ except as provided in Rule 0800-01-07-.02 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2015 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

Rule 0800-01-07-.02 Amended

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "July 1, 2014" to "January 1, 2015".

Existing Rule:

- (1) As of ~~July 1, 2014~~, there are no exceptions.

Proposed Amended Rule:

- (1) As of January 1, 2015, there are no exceptions.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

2014 SEP 19 PM 3:20
SECRETARY OF STATE

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 8/21/14 (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.

Date: 8/21/14

Signature: Burns Phillips

Name of Officer: Burns Phillips

Title of Officer: Commissioner of Labor and Workforce Development



Subscribed and sworn to before me on: 8-21-14

Notary Public Signature: Sheryl Messenger

My commission expires on: 1-9-2016

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

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
9-15-14
 Date

Department of State Use Only

Filed with the Department of State on: 9/19/14

Effective on: 12/18/14

Tre Hargett
 Tre Hargett
 Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Equalization

DIVISION: N/A

SUBJECT: Assessment Certification and Education Program

STATUTORY AUTHORITY: Tennessee Code Annotated, §§ 67-1-305 and 67-1-508 – 67-1-510

EFFECTIVE DATES: December 24, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This amendment requires the Tennessee Master Assessor designation to attend similar continuing education requirements as lesser designations. Additionally, this amendment updates some references and reorganizes grammar structure in rules affecting staff in local assessor's offices and the Comptroller's office.

May 8, 2014

Memorandum

To: File for rules adopted March 5, 2014, concerning the Assessment Certification and Education Program (Chapter 0600-4)

From: Kelsie Jones, Executive Secretary 
State Board of Equalization

Subject: **Rule information required by Tenn. Code Ann. §4-5-222**

Copy of rules and record of vote

Pursuant to Tenn. Code Ann. §4-5-222, attached hereto to be maintained with the file is a copy of a rule adopted by the State Board of Equalization on March 5, 2014, concerning the Assessment Certification and Education Program (Chapter 0600-4). Page 6 of the rules sets forth the record of the roll call vote of the members of the Board on the adoption of the rule.

Response of agency to comments

The Board received no comments regarding these amendments.

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 State Board of Equalization determined the foregoing amendments do not affect small businesses. The amendments update references and reorganize grammar structure in the rules affecting assessment staff in local assessors' offices and state assessment staff in the Comptroller's office. The only substantive change subjects the Tennessee Master Assessor designation to comparable continuing education requirements already applicable to lesser designations. These are professional achievement designations not available to private appraisal professionals, and therefore the amendments do not affect small business.

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 are not believed to have a financial impact on local governments. The amendments update references and reorganize grammar structure in the rules affecting assessment staff in local assessors’ offices and state assessment staff in the Comptroller’s office. The only substantive change subjects the Tennessee Master Assessor designation to comparable continuing education requirements already applicable to lesser designations. Local governments are not obliged to defray the expense of continuing education for assessment staff, however most choose to do so whether or not the employee is pursuing the designation. The Comptroller’s office provides continuing education opportunities to assessment staff without charge, by way of training these employees better to carry out statutory responsibilities.

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Sequence Number: 09-23-14
 Rule ID(s): 5803
 File Date: 09-25-14
 Effective Date: 12-24-14

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	State Board of Equalization
Division:	
Contact Person:	Kelsie Jones, Executive Secretary
Address:	312 Rosa L Parks Ave., Ste. 900
Zip:	37243-1102
Phone:	615-747-5379
Email:	kelsie.jones@cot.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
0600-04	Assessment Certification and Education Program
Rule Number	Rule Title
0600-04-.01	General Requirements for Candidacy – Definitions
0600-04-.02	Assessment Level I – Certification Requirements
0600-04-.03	Assessment Level II – Certification Requirements
0600-04-.04	Assessment Level III (Tennessee Certified Assessor) – Certification Requirements
0600-04-.05	Assessment Level IV – Certification Requirements
0600-04-.06	Assessment Level V (Tennessee Master Assessor) – Certification Requirements
0600-04-.07	Retirement of Certification
0600-04-.08	Continuing Education Procedures
0600-04-.10	Incentive Compensation for Assessing Officials
0600-04-.12	Courses Approved for Continuing Education Credit

Senal Redhines

AMENDMENTS TO CHAPTER 0600-04 ASSESSMENT CERTIFICATION AND EDUCATION PROGRAM, ADOPTED 3/5/14

'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226 (i):

0600-04-.01 GENERAL REQUIREMENTS FOR CANDIDACY - DEFINITIONS.

(1) To qualify for candidacy in the Assessment Certification and Education Program, the applicant must:

(a) Be a resident of the State of Tennessee as defined by law;

(b) Be at least 18 years of age;

~~(c) Complete an application on the form provided by the State Division of Property Assessments. In such application, the applicant shall agree to abide by the rules and regulations governing the Assessment Certification and Education Program set forth by the State Board of Equalization. The applicant should submit evidence of active involvement in the field of property assessment, including the holding of any public office responsible for the mass appraisal of property for ad valorem tax purposes, or employment in such office.~~

(c) Complete an application provided by the Division of Property Assessments;

(d) Agree to abide by the rules and regulations governing this Program; and

(e) Submit evidence of active involvement in the field of property assessments, including the holding of any public office or being employed in an office responsible for the mass appraisal of property for ad valorem tax purposes.

~~(2) Candidates requesting certification for any level must submit evidence of training and experience as follows:~~

~~(a) Submit with the application verification of successful completion of each course for which credit is sought. Courses that are unrelated to the identification or the appraisal of property, will not be considered. Acceptable evidence of training is: (a) certificate of completion, (b) pass/fail form, (c) grade report form, (d) letter of successful completion, or (e) the uniform request for recertification credit form signed by the instructor or agency sponsoring the course. No single course may be used to fulfill multiple certification levels.~~

~~(b) Acceptable evidence of experience credit is a letter confirming employment in the field of mass appraisal. The letter should provide the dates of employment and the signature and work address of the individual responsible for the confirmation of employment.~~

(2) Along with the application to be submitted, candidates requesting certification for any level must submit evidence of training and experience.

(a) For evidence of training, verification of a successful completion of each course for which credit is sought must be submitted with the application. Acceptable evidence of training is: a certificate of completion; a pass-fail form; a grade report form; a letter of successful completion; or the uniform request for recertification credit form signed by the instructor or agency sponsoring the course.

1. No single course may be used to fulfill multiple certification levels.

2. Courses unrelated to the identification or the appraisal of property will not be considered.

(b) To receive credit for experience, acceptable evidence is a letter confirming employment in the field of mass appraisal. The letter must provide the dates of employment and the signature and work address of the individual confirming the employment.

~~(3) The applicant shall return the completed application to the Division. On the basis of the information provided in the application and attached verification data, the applicant will be notified regarding his/her acceptance in the program and will be further informed as to the requirements that need to be~~

met for attainment of the appropriate certification level.

(3) The applicant must return the completed application to the Division. Based on the information provided in the application and attached verification data, the applicant will be notified regarding his or her acceptance in the program and will be informed of the requirements that must be met to attain the appropriate certification level.

(4) As used in this chapter, unless the context otherwise requires, the following words shall have the meanings noted:

(a) "AAS" means the Assessment Administration Specialist professional assessment designation of the IAAO.

(b) "Board" means the Tennessee State Board of Equalization.

(c) "Division" means the State Division of Property Assessments of the Comptroller of the Treasury.

(d) "IAAO" means the International Association of Assessing Officers.

(e) "CMS" means the Certified Mapping Specialist professional assessment designation of the IAAO.

(f) "PPS" means the Personal Property Specialist professional assessment designation of the IAAO.

(g) "RES" means the Residential Evaluation Specialists professional assessment designation of the IAAO.

(h) "CAE" means the Certified Assessment Evaluator professional assessment designation of the IAAO.

(i) "Certified General Real Estate Appraiser" means the certification issued by the Tennessee Real Estate Appraisal Commission.

(4) Definitions.

(a) "AAS" means the Assessment Administration Specialist professional assessment designation of the IAAO.

(b) "Board" means the Tennessee State Board of Equalization.

(c) "CAE" means the Certified Assessment Evaluator professional assessment designation of the IAAO.

(d) "Certified General Real Estate Appraiser" means the certification issued by the Tennessee Real Estate Appraisal Commission.

(e) "CMS" means the Certified Mapping Specialist professional assessment designation of the IAAO.

(f) "Division" or "DPA" means the State Division of Property Assessments of the Comptroller of the Treasury.

(g) "IAAO" means the International Association of Assessing Officers.

(h) "PPS" means the Personal Property Specialist professional assessment designation of the IAAO.

(i) "Program" means the Assessment Certification and Education Program.

(j) "RES" means the Residential Evaluation Specialists professional assessment designation of the IAAO.

(k) "TCA" means the Tennessee Certified Assessor designation issued by the State Board of Equalization.

(l) "TMA" means the Tennessee Master Assessor designation issued by the State Board of Equalization.

0600-04-.02 ASSESSMENT LEVEL I - CERTIFICATION REQUIREMENTS.

~~(1) To qualify for the Assessment Level I certification, the candidate must meet the following requirements:~~

- ~~(a) Must be employed full-time in the field of property appraisal for ad valorem tax purposes.~~
- ~~(b) Must have received a passing grade on the examination for either the Tennessee Assessment Law and Appraisal Fundamentals Course, or all the following courses offered by the University of Tennessee County Technical Assistance Service (CTAS): Legal Issues for Assessors of Property, Records Management for Assessors, and Management Skills for Assessors.~~
- ~~(c) Must have received a passing grade on the examination for the Basic Mapping Course.~~
- ~~(d) Must have received a passing grade on the IAAO examination for Course 101 – Fundamentals of Real Property Appraisal.~~
- ~~(e) Receive a passing grade on a Level I comprehensive examination.~~

(1) To qualify for the Assessment Level I certification, the candidate must meet all of the following requirements:

- (a) Must be employed full time in the field of property appraisal for ad valorem tax purposes;
- (b) Must have a passing grade on the examination for the DPA Tennessee Assessment Law Workshop and DPA Appraisal Fundamentals Workshop;
- (c) Must have a passing grade on the examination for the Basic Mapping Course;
- (d) Must have a passing grade on the IAAO examination for Course 101 – Fundamentals of Real Property Appraisal; and
- (e) Must have a passing grade on a Level I comprehensive examination.

0600-04-.03 ASSESSMENT LEVEL II - CERTIFICATION REQUIREMENTS.

(1) To qualify for the Assessment Level II certification, the candidate must meet the following requirements:

- (a) Must have at least one (1) year of full-time experience in the field of property appraisal for ad valorem tax purposes.
- ~~(b) Must have satisfied the requirements for the preceding level.~~
- ~~(c) Must have received a passing grade on the IAAO examination for Course 102 Income Approach to Valuation.~~
- ~~(d) Must have received a passing grade on the examination for the Advanced Mapping Course or IAAO Course 400 or Course 600.~~

(b) Must have satisfied the Assessment Level I certification requirements, above;

(c) Must have received a passing grade on the IAAO examination for Course 102 – Income Approach to Valuation; and

(d) Must have received a passing grade on one of the following IAAO Courses: 400, 600, or 601.

**0600-04-.04 ASSESSMENT LEVEL III (TENNESSEE CERTIFIED ASSESSOR) -
CERTIFICATION REQUIREMENTS.**

(1) To qualify for the Tennessee Certified Assessor (TCA) certification, the candidate must meet the following requirements:

- (a) Must have at least two (2) years of full-time experience in the field of property appraisal for ad valorem tax purposes.
- (b) Must have satisfied the requirements for the preceding levels.
- (c) Must have received a passing grade on one of the following IAAO courses: Course 300, Course 400, Course 600, or Advanced Mapping.
- (d) Must have received a passing grade on USPAP – Uniform Standards of Appraisal Practice and Professional Ethics.

(2) In addition, the candidate must have:

- (a) Received a passing grade on a narrative demonstration appraisal report related to residential property submitted to the Division of Property Assessments and meeting the requirements of the IAAO, and a passing grade on the comprehensive exam administered through the Division of Property Assessments or
- (b) Received a passing grade on a case study examination offered by the Division of Property Assessments addressing the recognized approaches to value on a single family residence and a passing grade on the comprehensive exam administered by the Division of Property Assessments.

(3) Persons holding the TCA designation must meet the requirements of continuing education set forth in rule 0600-4-.08.

Rule 0600-04-.04 Assessment Level III (Tennessee Certified Assessor – Certification Requirements

(1) To qualify for the Tennessee Certified Assessor (TCA) certification, the candidate must meet all of the following requirements:

- (a) Must have at least two (2) years of full-time experience in the field of property appraisal for ad valorem tax purposes;
- (b) Must have satisfied the certification requirements for Assessment Level I and Assessment Level II, above;
- (c) Must have received a passing grade on one of the following IAAO Courses: 300, 400, 600, or 601; and
- (d) Must have received a passing grade on IAAO Workshop 151, USPAP - Uniform Standards of Appraisal Practice and Professional Ethics.

(2) In addition to subparagraphs (1)(a)–(d), the candidate must have received a passing grade on either:

- (a) A case study examination offered by the Division addressing the recognized approaches to value on a single-family residence; or
- (b) A narrative demonstration appraisal report, which was assigned and graded by IAAO, related to residential property.

(3) The candidate must also receive a passing grade on the comprehensive exam administered through the Division.

(4) Persons holding the TCA designation must meet the requirements of continuing education set forth in rule 0600-04-.08.

0600-04-.05 ASSESSMENT LEVEL IV-CERTIFICATION REQUIREMENTS

(1) To qualify for the Assessment Level IV certification, the candidate must meet the following requirements:

(a) Must have at least three (3) years of full-time experience in the field of property appraisal for ad valorem tax purposes.

~~(b) Must have satisfied the requirements for the preceding levels.~~

~~(c) Must have received a passing grade on IAAO Course 311.~~

~~(d) Must have received a passing grade on the examination for one of the following IAAO courses: 201, 207, 400, 500, 600, or Advanced Mapping.~~

(b) Must have satisfied the certification requirements for Assessment Levels I, II, and III, above;

(c) Must have received a passing grade on IAAO Course 311; and

(d) Must have received a passing grade on one of the following IAAO Courses: 201, 207, 400, 500, 600, or 601.

0600-04-.06 ASSESSMENT LEVEL V (TENNESSEE MASTER ASSESSOR) – CERTIFICATION REQUIREMENTS

(1) To qualify for the Tennessee Master Assessor (TMA) Assessment Level V certification, the candidate must meet one of the following requirements:

REQUIREMENT I

~~(a) Must have at least four (4) years of full-time experience in the field of property appraisal for ad valorem tax purposes.~~

~~(b) Must have satisfied the requirements for the preceding levels.~~

~~(c) Must have received a passing grade on IAAO Course 112 and Course 312 or~~

REQUIREMENT II

~~Must be a Certified General Real Estate Appraiser through the state of Tennessee Real Estate Appraisal Commission with two (2) years of full-time experience in the field of ad valorem taxation and receive a passing grade on Tennessee Assessment Law and Appraisal Fundamentals or~~

REQUIREMENT III

~~Must have obtained and hold a current AAS, CAE, CMS, PPS, or RES designation through the International Association of Assessing Officers.~~

~~(2) To obtain credit for one of the three requirements the applicant must supply documentation in the form of (i) a copy of the certificate of successful completion for course credit, (ii) a copy of a current certificate and a letter of good standing issued by the Tennessee Real Estate Appraisal Commission, or (iii) a copy of the certificate awarded by the IAAO Board and confirmation of good standing in the association for AAS, CAE, CMS, PPS, or RES designation.~~

(1) To qualify for the Tennessee Master Assessor (TMA) Assessment Level V certification, the candidate must meet the requirements of subparagraph (a), (b), or (c).

(a) Must have:

1. at least four (4) years of full-time experience in the field of property appraisal for ad valorem tax purposes; and

2. satisfied the certification requirements for Assessment Levels I, II, III, and IV; and

3. received a passing grade on IAAO Courses 112 and 312; or

(b) Must be a Certified General Real Estate Appraiser through the state of Tennessee Real Estate Appraisal Commission with two (2) years of full-time experience in the field of ad valorem taxation and receive a passing grade on the DPA Tennessee Assessment Law Workshop and DPA Appraisal Fundamentals Workshop; or

(c) Must have obtained and hold a current AAS, CAE, CMS, PPS, or RES designation through the International Association of Assessing Officers.

(2) To obtain credit under subparagraph (1)(a), (b), or (c), the applicant must supply the applicable documents:

(a) a copy of the certificate of successful completion for course credit;

(b) a copy of a current certificate and a letter of good standing issued by the Tennessee Real Estate Appraisal Commission; or

(c) a copy of the certificate awarded by the IAAO Board and confirmation of good standing in the association for AAS, CAE, CMS, PPS, or RES designation.

Persons holding the TMA designation must meet the requirements of continuing education set forth in rule 0600-04-.08.

0600-04-.07 RETIREMENT OF CERTIFICATION.

~~(1) Candidates holding certification levels who leave government employment for private sector employment will have their certification retired. Training records will not be maintained by the Division for those candidates leaving government employment. Certifications that require continuing education to remain in good standing may be reactivated upon receipt, by the Division, of evidence illustrating that the candidate has resumed government employment and has met continuing education requirements. This evidence should include the following:~~

~~(a) A letter from the employer confirming government employment.~~

~~(b) Proof of continuing education in the form of (a) certification of completion, (b) pass/fail form,~~

~~(c) grade report form, (d) letter of successful completion, or (e) the uniform request for recertification credit form signed by the instructor or agency sponsoring the course.~~

Rule 0600-04-.07 Retirement of Certification

(1) Persons holding assessment certifications who leave government employment for private-sector employment will have their certification retired. Training records related to retired certifications will not be maintained by the Division. Certifications may be reactivated upon acceptance, by the Division, of evidence that the candidate has resumed government employment and has met continuing education requirements. This evidence consists of:

(a) A letter from the employer confirming government employment; and

(b) Proof of continuing education in the form of certification of completion; pass-fail form; grade report form; letter of successful completion; or the uniform request for recertification credit form signed by the instructor or agency sponsoring the course.

0600-04-.08 CONTINUING EDUCATION PROCEDURES.

~~(1) The objective of the continuing education program is to encourage continued professional advancement by attendance or instruction at education programs and, thereby, to ensure continuing exposure to new developments in the field. Continuing education requirements are based solely on attendance and the receipt of a passing grade on the exam, for courses offering exams, or instruction at~~

structured education programs as explained on the following page.

(2) Persons holding the Tennessee Certified Assessor designation must meet the following requirements within each five (5) year interval.

(a) Must complete an application for continuing education credit on the form provided by the State Division of Property Assessments. The application must be completed in its entirety and must include the signature of the course instructor or representative of the sponsoring organization. The form should be signed at the conclusion of the program and submitted within ninety (90) days with a grade report form. In order to provide assistance in the evaluation of programs for which continuing education application is made, a complete description of the program should be provided. Applications should be submitted to the State Division of Property Assessments.

(b) Must within each five (5) year period after receiving the designation, successfully have completed fifty (50) hours of attendance or instruction in courses approved pursuant to rule 0600-4-.12. The Board may extend the period for completion of continuing education requirements, or modify reinstatement requirements as appropriate, where the applicant is prevented from meeting the deadline by circumstances beyond the applicant's control.

(3) All applications for continuing education credit submitted will be reviewed by the State Division of Property Assessments, and the applicant will be notified whether continuing education credit has been approved and the number of hours granted.

(4) These procedures (Section 0600-4-.07) apply only to the TCA Designation.

Rule 0600-04-.08 Continuing Education Procedures

(1) The objective of the continuing education program is to encourage professional advancement by attendance or instruction at education programs and, thereby, to ensure continuing exposure to new developments in the field. Continuing education requirements are based solely on attendance and a passing grade for courses offering exams or instruction at structured education programs as approved by the Division.

(2) TCA or TMA designees must meet both of the following requirements:

(a) To receive continuing education credit, an application provided by the Division must be completed and include the signature of the course instructor or representative of the sponsoring organization. The application, along with a grade report form and a complete description of the program, must be submitted to the Division within ninety (90) days from the conclusion of the program.

(b) Fifty (50) hours of attendance or instruction in approved courses must be successfully completed every five (5) years after receiving the TCA or TMA designation. The Division will maintain a list of approved courses for the purpose of continuing education. The Board may extend the period for completion of continuing education requirements, or modify reinstatement requirements as appropriate, where the applicant is prevented from meeting the deadline by circumstances beyond the applicant's control.

(3) All applications for continuing education credit submitted will be reviewed by the Division, and the applicant will be notified whether continuing education credit has been approved and the number of hours granted.

0600-04-.10 INCENTIVE COMPENSATION FOR ASSESSING OFFICIALS.

Where it is provided that any assessor or deputy assessor is entitled to receive incentive compensation from the state for attaining certain professional designations, such compensation shall not exceed the maximum amount for the highest designation achieved by a recipient. Such compensation shall be prorated for active employment. Designees terminating employment other than by retirement, prior to the end of the fiscal year (June 30) will not receive prorated compensation.

Rule 0600-04-.10 Incentive Compensation for Assessing Officials

Where it is provided that any full time assessor or full time deputy assessor is entitled to receive incentive compensation from the state for attaining certain professional designations, such compensation shall not exceed the maximum amount for the highest designation achieved by a recipient.

0600-04-.12 COURSES APPROVED FOR CONTINUING EDUCATION CREDIT.

(1) The courses set forth in this rule are approved for continuing credit in the amount of hours noted.

A-Advanced Courses; B-Basic Courses.

HOURS A/B INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS

30-B Course 101-Fundamentals of Real Property Appraisal

30-B Course 102-Income Approach to Valuation

30-A Course 400-Assessment Administration

ASSESSMENT CERTIFICATION AND EDUCATION PROGRAM CHAPTER 0600-4

(Rule 0600-4-.12, continued)

September, 2005 (Revised) 7

30-A Course 402-Property Tax Policy

30-A Course 500-Assessment of Personal Property

30-B Course 600-Principles and Techniques of Cadastral Mapping

30-A Course 601-Advanced Mapping

30-A Course 201-Appraisal of Land

30-A Course 112-Income Approach to Valuation II

30-A Course 207-Industrial Property Appraisal

30-A Course 300-Fundamentals of Mass Appraisal

30-A Course 310-Applications of Mass Appraisal Fundamentals

30-A Course 311-Residential Modeling Concepts

30-A Course 312-Commercial and Industrial Modeling Concepts

15-A Workshop 151-Uniform Standards of Professional Appraisal Practice

HOURS A/B DIVISION OF PROPERTY ASSESSMENTS

30-B Tennessee Assessment Law and Appraisal Fundamentals

30-B Basic Mapping Course

30-B Advanced Mapping Course

(2) Certifications and designations conveyed by other professional appraisal organizations and courses offered by those organizations will be evaluated on an individual basis for equivalent credit.

2014 SEP 25 AM 10:53

2014 SEP 25 AM 10:53

* 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)
Randy Button (Vice-chair)	X				
Bill Bennett	X				
Tre Hargett	X				
David Lillard				X	
Richard Roberts				X	
Herbert Slatery	X				
Justin Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 03/05/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: November 21, 2013

Rulemaking Hearing(s) Conducted on: (add more dates): January 13, 2014

Date: 5/8/14

Signature: Kelsie Jones

Name of Officer: Kelsie Jones

Title of Officer: Ex. Sec. S BOE



Subscribed and sworn to before me on: May 8, 2014

Notary Public Signature: Jennifer A Cowherd

My commission expires on: 11-03-2015

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
8-13-14
 Date

RECEIVED
 2014 SEP 25 AM 10:53
 OFFICE OF
 SECRETARY OF STATE

Department of State Use Only

Filed with the Department of State on: 09-25-14

Effective on: 12-24-14

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Fire Prevention

SUBJECT: Electrical Installations--Inspections, Codes Enforcement and Inspection Fees for Boat Docks and Marinas

STATUTORY AUTHORITY: Tennessee Code Annotated, §§ 68-102-113, 68-102-143, 68-102-602 and 68-102-603

EFFECTIVE DATES: December 29, 2014 through June 30, 2015

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This amendment authorizes the commissioner to conduct electrical inspections of boat docks and marinas, and enforce codes provisions pursuant to Public Chapter 923 of 2014. This amendment authorizes the commissioner to charge inspection fees for boat docks and marinas pursuant to Public Chapter 150 of 2013. This amendment also adds a new third party testing laboratory, SGS North America, Inc., to the list of accepted, independent laboratories. Lastly, this amendment corrects several citations to statutes and rule numbers.

Public Hearing Comments

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

There were no comments (oral or written) received at the public rulemaking hearing.

Regulatory Flexibility Addendum

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

1. Types and estimated number of small businesses directly affected:

Small businesses involved in electrical installations will be affected by the promulgation of these rules.

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

There is no foreseeable alteration in existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.

3. Probable effect on small businesses:

Small businesses involved in electrical installations and construction will be affected by the promulgation of these rules.

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

The proposed rules are not anticipated to impact small businesses more than the current rules provide. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the rule. The State Fire Marshal's Office has previously adopted rules (Chapter 0780-02-01) for Electrical Installations.

6. Effect of possible exemption of small businesses:

There are no possible exemptions for small businesses to the requirements contained in the proposed rules.

Impact on Local Governments

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

The proposed rule will not impact local governments which operate electrical inspection programs in their respective jurisdictions.

**Department of State
Division of Publications**

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

For Department of State Use Only

Sequence Number: 09-31-14
Rule ID(s): 5005
File Date: 9/30/14
Effective Date: 12/29/14

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission: Tennessee Department of Commerce and Insurance
Division: Division of Fire Prevention
Contact Person: Joseph Underwood
Address: 500 James Robertson Parkway, Davy Crockett Tower 8th Floor, Nashville, TN
Zip: 37243
Phone: 615-741-3899
Email: Joseph.Underwood@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
0780-02-01	Electrical Installations
Rule Number	Rule Title
0780-02-01-.03	Approval of Electrical Products
0780-02-01-.04	Inspections
0780-02-01-.21	Inspection Fees
0780-02-01-.22	Boat Docks and Marinas

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-02-01
ELECTRICAL INSTALLATIONS**

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0780-02-01-.03 APPROVAL OF ELECTRICAL PRODUCTS.

(1) Approved Testing Laboratories

- (a) The Commissioner of Commerce and Insurance, or designee, will accept as satisfactory (when properly installed or used) materials, equipment, devices, or applicants which:

1. Display Bear a label, symbol, or other identifying mark of one of the following independent testing laboratories:

American Gas Association Laboratories
8501 East Pleasant Valley Road
Cleveland, Ohio 44131

Applied Research Laboratories
5371 Northwest 161 Street
Miami, Florida 33014

Canadian Standards Association (CSA)
178 Rexdale Boulevard
Rexdale, Ontario, Canada M9W 1R3

Detroit Testing Laboratory, Inc.
8720 Northend Avenue
Oak Park, Michigan 48237
(Power-operated dispensing devices for petroleum products only)

ETL Testing Laboratories, Inc.
Industrial Park
Cortland, New York 13045

FM Approvals LLC
1151 Boston-Providence Turnpike
Norwood, Massachusetts 02062

MET Electrical Testing Company, Inc.
916 West Patapsco Avenue
Baltimore, Maryland 21230

NSF International
789 N. Dixboro Road
Ann Arbor, Michigan 48113

QPS Evaluation Services Inc.
81 Kelfield Street, Unit 8,
Toronto, Ontario, M9W 5A3

SGS North America Inc.
620 Old Peachtree Road, Suite 100
Suwanee, GA 30024

TÜV Rheinland of North America, Inc.
12 Commerce Road
Newtown, CT 06470

TÜV SÜD America, Inc.
10 Centennial Drive
Peabody, Massachusetts 01960

Underwriters Laboratories, Inc.
333 Pfingsten Road
Northbrook, Illinois 60062

or,

2. Are certified by another independent testing agency or laboratory to meet a standard which, in the Commissioner's, or designee's, judgment, provides an adequate level of safety ~~and by being:~~
 - (i) ~~is nationally-recognized~~ nationally as an electrical product safety standard;
 - (ii) ~~is periodically-revised~~ periodically to accommodate the latest developments in electrical products and installations; and
 - (iii) ~~is developed by the publisher in a manner which affords adequate opportunity for presentation and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the field involved.~~
- (b) Any standard which is accepted by the American National Standards Institute (ANSI) shall be deemed to satisfy the requirements of part 2 of subparagraph (a) above.
- (c) Where there is no published standard for a product under consideration which meets the requirements of part 2 of subparagraph (a) above, the testing agency or laboratory must identify, and justify the adequacy of, the standard or specifications on which its certification is based.
- (d) Components of certified products must be evaluated for compliance with applicable safety standards, and determined to be suitable for use in such products.

- (2) In lieu of evaluation by a testing agency or laboratory in accordance with paragraph (1)(a) above, the Commissioner of Commerce and Insurance, or designee, may will consider other satisfactory evidence that a product meets safe and proper standards.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.04 INSPECTIONS.

- (1) Inspections of electrical installations will be conducted by deputy inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to T.C.A. § 68-102-143. In circumstances where the need arises as determined by the Commissioner of Commerce and Insurance, or designee, supervisors of deputy inspectors are authorized to conduct inspections of electrical installations.
- (a) Fees for such inspections for services, including all circuits connected thereto, based on total ascertainable ampere capacity, are specified in rule 0780-02-01-.21 ~~T.C.A. § 68-102-143~~. If the total ampere capacity is not ascertainable, the inspector may negotiate the fee based on the estimated number of required inspections; however, any such fee shall be subject to review and approval by the Commissioner of Commerce and Insurance, or designee.
- (b) Fees charged for additional inspections including inspections necessitated by rejections and inspections for circuits not previously connected to the service, shall be based on the ascertainable ampere capacity of the service or ascertainable ampere capacity of the previously unconnected circuit, and shall not exceed the maximum amounts specified in rule 0780-02-01-.21 ~~T.C.A. § 68-102-143~~.
- (c) Inspectors may not charge mileage in excess of the standard travel reimbursement rate, as determined by the Tennessee Department of Finance and Administration, for the State of Tennessee per mile each way for any special trip(s) requested by a property owner or contractor. This mileage charge must be approved in advance by the Commissioner of Commerce and Insurance, or designee.
- (2) (a) Inspections are required on:
1. Complete new installations.
 2. HVAC equipment.
 3. New services or changes in services to existing installations.
 4. Additions to existing installations, such as swimming pools, water well pumps to the wellhead, motor installations, additional rooms or spaces to existing buildings, grain drying equipment and out buildings.
 5. Heat cable installations before being concealed by plaster, sheet rock, or other methods.
 6. Conduit or raceways in or under masonry before covering with concrete or other permanent materials.
 7. Conductors or raceways installed in all structures. This inspection is required prior to the concealing of such conductors or raceways by wall covering materials or by insulation.

8. Temporary services.

- (b) A minimum of two inspections shall be required on wiring installed within or on public and private buildings or other structures. The installer shall notify the electrical inspector in writing whenever any part of a wiring installation is to be hidden from view by insulation or the permanent placement of part of the building. No wiring or raceways shall be concealed until it has been inspected and approved by the inspector. A final inspection shall be requested upon completion of the entire electrical installation.
- (3) When the initial ("rough-in") inspection is conducted:
- (a) All applicable circuit conductors and outlet boxes must be installed;
- (b) All joints shall be made; and
- (c) All grounding connections must be in compliance with Section 300.10 of the 2008 National Electrical Code except as set forth in the exceptions enumerated in this subparagraph.
- Exception No. 1: Where that portion of an installation which constitutes service conductors and equipment is changed or modified.
- Exception No. 2: Where all wiring or raceway is exposed.
- Exception No. 3: The requirements of (a) above shall not apply where inspection is performed on raceway systems only.
- (4) The electrical or Mechanical Contractor is responsible for making sure the inspector has access to the job to be inspected.
- (5) The installer shall notify the inspector when the electrical installation is ready for inspection.
- (6) Except as provided in rule 0780-02-01-.05(2) and for installers licensed in accordance with Tenn. Code Ann. Title 69, Chapter 10, the inspector ~~shall~~ not issue a final certificate of approval on an installation performed by any person, firm, corporation or legal entity not duly licensed in accordance with Tenn. Code Ann. Title 62, Chapter 6.
- (7) It is not intended that electric service to an existing installation be disrupted pending inspection of additions or changes to such service; however, an inspection is required within seven (7) days of re-connection by the Power Supplier.
- (8) Whenever service equipment has been changed out or upgraded on any existing structures, a safety inspection will be conducted pursuant to Tenn. Code Ann. § 68-102-143(5).
- (9) Inspections are not required on:
- (a) Minor repair work, such as replacement of lamps or connection of portable devices to suitable receptacles which have been permanently installed.
- (b) Installation, alteration, or repair of electric wiring or equipment installed by an electrical distribution agency for use in the generation, transmission, distribution, or metering of electrical energy.
- (10) The inspector ~~shall~~ not issue a final certificate of approval on an installation ~~performed~~ if a building permit has not been obtained, ~~if required, or~~ plans have not been reviewed and approved by the Department of Commerce and Insurance, ~~if where required, or all inspections have not been performed pursuant to rule 0780-02-23-.07.~~

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.21 Inspection Fees

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

	Fee
<u>Final Inspection</u>	
0-200 ampere capacity	\$27.00
201-400 ampere capacity	\$40.00
401-600 ampere capacity	\$50.00
601-1000 ampere capacity	\$90.00
1,001 ampere capacity and above (i.e. "Nonstandard permit")	Fee is negotiable; however, any such fee shall be subject to review and approval by the commissioner, or designee.
<u>Rough-in Inspection</u>	
0-1,000 ampere capacity	\$27.00
1,001 ampere capacity and above	\$35.00
<u>Re-inspection</u>	
Based on rejection of 0-1,000 ampere capacity	\$27.00
Based on rejection of 1,001 ampere capacity and above	\$35.00
Inspection of a dwelling unit's heating and/or cooling system (e.g. HVAC)	\$27.00
Consultation Inspection (optional/available upon request)	\$50.00
Service Release Inspection (valid for 45 days)	Fee is based on ampere capacity of service.
Inspection of Boat Docks and Marinas	Fee is negotiable based upon the number and size of subpanels and panels, and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.

0780-02-01-.22 Boat Docks and Marinas

- (1) Safety inspections of boat docks and marinas shall include, but are not limited to, a review of all sources of electrical supply, including ship-to-shore power pedestals, submergible pumps, and sewage pump-out facilities, that could result in unsafe electrical current in the water for the purpose of ensuring compliance with the standards for maintenance of electrical wiring and equipment that were applicable to the marina at the time of installation.
- (2) (a) In the event that a deficiency is found during a safety inspection, any subsequent inspection required for the inspection of repairs made to address such deficiency shall be conducted by a deputy electrical inspector commissioned under T.C.A. § 68-102-143, and in accordance with T.C.A. § 68-102-143 and Tenn. Comp. R. & Regs. 0780-02-01.
- (b) The permit fee for inspection of boat docks and marinas is negotiable based upon the number of subpanels, panels and the ampere capacity of service; however, any such fee shall be subject to review and approval by the Commissioner of Commerce and Insurance, or designee.

- (3) Any main overcurrent protective device, installed or replaced on or after April 1, 2015, that feeds a marina shall have ground-fault protection not exceeding one hundred milliamperes (100 mA). Ground-fault protection not exceeding one hundred milliamperes (100 mA) of each individual branch or feeder circuit shall be permitted as a suitable alternative. Each marina operator may determine which devices to use to achieve the one hundred milliamperes (100 mA) limit that is required herein, including, but not limited to, the use of equipment leakage circuit interrupters or ground fault circuit interrupters.
- (4) Inspections shall be performed in accordance with the adopted electrical code edition effective at the time of installation. If the time of installation cannot be determined, the installation will be inspected in accordance with Article 555 in the edition of the National Electrical Code adopted in rule 0780-02-01-.02, unless otherwise authorized or approved by the Commissioner of Commerce and Insurance, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Commerce and Insurance on 09/02/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 07/09/2014

Rulemaking Hearing(s) Conducted on: (add more dates) 09/02/2014



Date: 9-15-14

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 9-15-14

Notary Public Signature: Denise M Lewis

My commission expires on: 2-15-16

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.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
9-26-14
Date

Department of State Use Only

Filed with the Department of State on: 9/30/14

Effective on: 12/29/14

Tre Hargett
Secretary of State

RECEIVED
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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture

DIVISION: Consumer and Industry Services Quality Inspection
Regulations

SUBJECT: Kerosene and Motor Fuels

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 47-18-1309 and
4-3-203

EFFECTIVE DATES: December 3, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The rules provide detailed definitions, standard fuel specifications, classification, and method of sale requirements for kerosene and motor fuels that are conveyed for consumption in Tennessee. For each product covered under the rule, citing the formal American Society for Testing and Materials (ASTM) International standard specification designation and any deviations thereof provides direct reference to the applicable requirement. Additionally, all blending, labeling, invoice markings, and identification requirements are clearly identified by the rules.

Relevant changes from the current rules include expanding the range of gasoline-ethanol blends that can be offered to Tennessee consumers by recognizing gasoline that contains up to fifteen percent (15%) ethanol for use in certain conventional vehicles, allowing mid-level ethanol blends for flexible-fuel vehicles, product transfer document declarations and fuel dispenser labeling for gasoline products containing manganese bearing additives, and overall housekeeping that updates the department's rules in order to be more consistent with the National Conference on Weights and Measures uniform engine fuel regulation.

11-06-14



TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF CONSUMER & INDUSTRY SERVICES

JULIUS JOHNSON
COMMISSIONER

ELECTRONIC MAIL (mardee.roberts@tn.gov)

November 4, 2014

Mardee Roberts, Publications Specialist
DIVISION OF PUBLICATIONS
Tennessee Secretary of State
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

RE: Rulemaking Hearing Rule(s) Filing Form– Kerosene and Motor Fuels Quality Inspection Regulations, chapter 0080-05-12, filed September 4, 2014

Dear Ms. Roberts:

Please accept this correspondence in follow-up to your email of October 27, 2014, regarding differences between the above-referenced Rulemaking Hearing Rule(s) Filing Form and the redline version of its rule amendment filed with your office.

Upon review, the Department of Agriculture wishes to proceed with the amendment as filed in the Rulemaking Hearing Rule(s) Filing Form and not the redline version. The former reflects the changes that were intended to be made by the Department to the existing rule and has been signed by both the Commissioner of Agriculture and the Attorney General.

Thank you for your efforts and consideration in this matter. Please advise if additional follow-up is needed from this office in promulgation of the rule.

Sincerely,

Jason B. Miller, Esq.
Counsel for Department of Agriculture
Division of Consumer & Industry Services

Cc: David Waddell, Administrative Director
Randy Jennings, Director of Program Operations

2014 NOV -4 PM 4:07

Public Hearing Comments

The Department of Agriculture held a rulemaking hearing on February 28, 2014. Both the comments received during the public hearing as well as written comments are summarized below along with the Departmental responses.

Mr. Matt King, King Public Strategies, representing Afton Chemical Company, provided oral testimony on behalf of Afton Chemical Company regarding Proposed Rule Section 0080-05-12-.02 (1) (i) which prohibits the use of metallic additives in gasoline and gasoline-oxygenate blends. Additionally, Afton Chemical Company submitted written comments in the form of a letter that was accompanied by technical data for Departmental review regarding Proposed Rule Section 0080-5-12-.02 (1) (i).

Mr. King stressed that he would only summarize his client's position as they have more than 200 pages of information to submit for review. Mr. King provided a non-technical outline on his company's position on mmt® (a metallic additive). Mr. King stated that mmt® is an EPA approved fuel additive under a 1995b waiver and has not been used in Tennessee. Afton Chemical opposes the proposed moratorium on mmt® and believes that Tennessee does not have the authority to enact metallic additive restrictions because the current version of ASTM D4814, Standard Specification for Automotive Spark-Ignition Engine Fuel, makes no references to mmt® and because Afton believes that the Federal waiver that permits mmt® preempts states from taking such action. Mr. King expressed that mmt® will not cause or contribute to engine problems or void warranties.

The Afton written comments suggest that the rule was proposed without technical justification and is neither warranted nor necessary. The comments suggest that the Department does not have legal authority to adopt this rule and that a federal EPA waiver preempts any state action adopted for the purpose of motor vehicle emission control. In addition to the comments, Afton provided many pages of technical data for Departmental review.

Departmental Response: The statutory framework for consideration of this issue begins with the legislative intent for the Kerosene and Motor Fuels Quality Inspection Act as expressed in Tenn. Code Ann. § 47-18-1302: "It is the intent of the general assembly, through this enactment, to promote and protect the public health, safety and welfare by ensuring that kerosene and motor fuels: (1) Are adequately labeled and posted; and (2) Meet or exceed certain minimum standards of quality." To carry out this intent the department is given broad authority to promulgate the necessary rules and regulations. The Tennessee Department of Agriculture's general rulemaking authority is derived from Tenn. Code Ann. § 4-3-203. "The department of agriculture has the power to: ... (10)(A) Promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. Such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title, except as otherwise provided by law." The department is given more specific authority in Tenn. Code Ann. § 47-18-1309 which states in part that: "(a) In accordance with the

provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the department shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of this part. (b) Such rules shall include, but shall not necessarily be limited to: (3) Identification and statement of current, applicable ASTM standards or federal standards, compliance with which is mandated by 47-18-1304; ...” In addition, Tenn. Code Ann. § 47-18-1304 mandates that: “(b) Kerosene and motor fuels conveyed for consumption in Tennessee shall meet the standards established for such products in the annual book of ASTM standards, and supplements thereto; provided, that by duly promulgated rule: (2) The department shall adopt as a substitute standard any provision of federal law which imposes requirements in conflict with an ASTM standard.” Afton’s questioning of the department’s authority to prohibit mmt® is based on its interpretation of § 47-18-1304 (b) (2). That section requires the department to “adopt as a substitute standard any provision of federal law which imposes requirements in conflict with an ASTM standard.” Before that subsection can be used as authority to promulgate a rule, a federal standard that imposes a requirement that is in conflict with an ASTM standard must be found. The applicable ASTM standard to this situation is D4814 (Standard Specification for Automotive Spark-Ignition Fuel). An examination of that standard, as you point out, contains no mention of mmt®.

The Environmental Protection Agency granted a limited waiver of its air quality rules, 60 Fed. Reg. 36,414 (July 17, 1995), to allow the use of mmt® in some fuels. That waiver cannot be considered to impose a requirement that mmt® must be used or must not be used. It can only be considered that the use of 0.03125 grams of manganese per gallon of conventional unleaded gasoline does not violate the air quality rules of EPA. The EPA waiver cannot be considered as “imposing a requirement”. Neither can it be considered “in conflict” with ASTM D4814 because that standard does not even mention mmt®. Tenn. Code Ann. § 47-18-1304 (b) (2) cannot be used as a prohibition of a rule prohibiting the use of mmt®. If the department determines that mmt®, or any other additive, may be harmful for any reason, it has an affirmative duty to take whatever action is necessary to carry out the legislative intent of the act to protect the public health, safety, and welfare under § 47-18-1302. The department may use its general rulemaking authority under § 4-3-203 to promulgate rules to effectuate its duties and responsibilities. In addition, under § 47-18-1309(b), such rules as may be necessary to efficiently and effectively administer and enforce the program, “shall include, but not necessarily be limited to: ... (3) Identification and statement of current, applicable ASTM standards or federal standards, compliance with which is mandated by 47-18-1304”. This section allows the department to go beyond ASTM and federal standards to protect the public.

The U.S. Clean Air Act expressly preempts any effort by states to regulate fuels for the purposes of motor vehicle emissions control. (§ 211(c)(4)). The department is not proposing this rule based upon vehicle emission concerns; the proposed rule is based upon vehicle component durability and operability concerns. Afton’s argument that the department’s proposal is federally preempted is not persuasive.

The ASTM International Committee D02 on Petroleum Products, Liquid Fuels, and Lubricants along with the National Conference on Weights and Measures agreed to form a joint Task Group in June 2013 to study organometallic additives and make a determination on the need to place limits into the applicable fuel specification documents. This Task Group has been formed because of concerns expressed by automakers, major oil companies, and regulators. These concerns include but are not limited to, possible metallic additive’s contribution to catalytic converter plugging, exhaust back pressure increase, decreases in oxygen storage capacity of the catalyst, and deposits on spark-plugs, combustion chambers, and oxygen sensors. The Task Group is in the process of accumulating data for review. Much data, including information provided by Afton Chemical - a participant on the Task Group - has been posted and made available for Task Group member review. The Department has reviewed much of the data, including the technical input provided by Afton Chemical, and takes the position that the introduction of metallic additives into Tennessee gasoline poses a potential detrimental risk to Tennessee consumers. Considering the fact that ASTM International and the National Conference on Weights and Measures has a functioning task force addressing organometallic additives, at this time the Department of Agriculture feels that it is prudent to amend these regulations by incorporating product transfer document notification and fuel dispenser labeling requirements. Should vehicle performance issues due to manganese or other metallic additives surface in Tennessee, the Department of Agriculture will consider the need to amend these regulations again at a future date.

Mr. Mike Williams, Tennessee Petroleum Council representing the American Petroleum Institute, provided a brief statement informing the Department that the American Petroleum Institute would be submitting written comments for review and thanked the Department for the openness of our rulemaking process.

Departmental Response: The Department appreciates the comments provided by Mr. Williams and the support for the rulemaking process.

Mr. Mick Henderson, Commonwealth Agri-Energy, provided brief comments supporting the changes being proposed that will create a market for more ethanol blending in Tennessee.

Departmental Response: The Department appreciates the comments and agrees that the proposed rules will provide for greater consumer choices in selecting the ethanol blends that meet their needs.

Kristy Moore, Renewable Fuels Association, presented both oral and written testimony. Specific comments related to Proposed Rule 0080-05-12-.03 (h) regarding submission of a marketing plan for fuels containing more than 10% by volume ethanol are addressed under a separate paragraph where Marathon Petroleum submitted similar comments. Ms. Moore also suggested that some of the labeling requirements being proposed for E15, without being specific, were novel and beyond what has been required in other states.

Departmental Response: The Department appreciates the support that the Renewable Fuels Association has provided. However, at this time the Department's position is that the proposed labeling requirements are appropriate for E15 fuels due to the fact that the fuel has vehicle type use restrictions. Departmental responses to all other points raised by the Renewable Fuels Association are detailed below and discussed in other sections where similar comments are grouped.

Mr. Jim Ellerbe, Marathon Petroleum Company, provided comments based upon a letter that was submitted. Mr. Ellerbe conveyed Marathon's support for many parts of the rule. Departmental responses to all points raised by Marathon Petroleum Company are detailed and discussed in other sections where similar comments are grouped. Mr. Dan Horton, ExxonMobil U.S. Downstream Refining Supply and Chemicals, provided comments based upon a letter that was submitted. Mr. Horton conveyed ExxonMobil's support for the comments that were to be submitted by the American Petroleum Institute.

Departmental responses to all other points raised by ExxonMobil are detailed and discussed in other sections where similar comments are grouped.

A joint statement from the auto industry was delivered by Stuart Johnson, Volkswagen America, on behalf of the Alliance of Automobile Manufacturers and the Association of Global Automakers (The Alliance is a trade association of twelve car and light truck manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars, Toyota, Volkswagen Group and Volvo Cars. The Global Automakers is a trade association of twelve automakers including Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, McLaren, Nissan, Subaru, Suzuki, and Toyota). Mr. Johnson complimented Tennessee on our commitment to protecting consumers and their vehicles. Comments are summarized as follows:

Proposed Section 0080-05-12-.02 (1) (b) 1. should clarify that the EPA waiver referenced is the allowance of an additional 1 pound per square inch (to 10 psi) Reid Vapor Pressure per the Clean Air Act regulations at 40 U.S. Code of Federal Regulations (CFR) Part 80.27(d), which should be clearly distinguished from the de facto EPA ethanol waiver allowing the sale of 0% to 10% ethanol gasoline blends.

Departmental Response: The department agrees and the language has been amended accordingly.

The group was supportive of proposed Section 0080-5-12-.02 (1) (i) regarding metallic additives but offered alternative language that does not influence the intent of the proposed rule. The group affirmed that the industry was in agreement that metallic additives pose risks of damage to the vehicle engine, catalyst and other equipment that reduce durability and performance. The group believes that these risks should be considered from a consumer standpoint.

Departmental Response: At this time the Department agrees and has updated language based upon the suggested revisions. However, as discussed under the departmental response to the Afton Chemical Comments, the Department's position is that it is prudent to place a temporary moratorium on the use of metallic additives in gasoline rather than a permanent prohibition as originally proposed and supported by the group.

The group suggested several additional labeling requirements for biodiesel blends containing more than 5% biodiesel, gasoline-ethanol blends containing more than 10% ethanol, and Fuel Methanol.

Departmental Response: The Department agrees with the suggestions for biodiesel blends greater than 5% by volume and with comments on Fuel Methanol. Appropriate changes have been made. At this time the Department disagrees with the request to add additional labeling to gasoline-ethanol blends greater than 10% ethanol. Gasoline-ethanol blends containing more than 10% ethanol will have mandatory labeling that will clearly distinguish this product from other products. At this time, the Department's position is that adding additional labeling to these dispensers would be distracting and reduce the effectiveness of the primary labels that will be mandated.

The group commented that Product Transfer Documents should declare the actual biodiesel content regardless of the concentration in order to assist potential downstream blenders. The group suggested that this was important and could prevent over-blending of biodiesel. The Tennessee Fuel and Convenience Store Association also provided comments consistent with this position. The Tennessee Fuel and Convenience Store Association believes that eliminating the requirement for biodiesel at concentrations less than or equal to 5% on Product Transfer Documents will lead to less downstream blending.

Departmental Response: At this time the Department disagrees with these comments and maintains the position that it is best not to amend the current proposed rule. This issue was extensively debated at the National Conference on Weights and Measures and was withdrawn from consideration. Pipelines distribute fuel into Tennessee on a fungible basis. By definition, diesel fuel may contain up to 5% biodiesel. Fuel terminals may at times receive product that contains biodiesel and at other times has no biodiesel. Testing each batch for exact biodiesel content then having computer systems reprogrammed to print the varying amounts of biodiesel that may be in the fuel would disrupt what is already a "just in time" delivery system. The Department's position is that the proposed regulation will increase the demand of biodiesel overall and will permit pipeline deliveries into the state that previously has been somewhat hindered by an outdated regulation. Therefore, the Department does not support this suggestion.

Comments from Nissan North America, Ford Motor Company, the Tennessee Automotive Association and the Tennessee Fuel and Convenience Store Association were issued in strong support of proposed Section 0080-5-12-.02 (1) (i) which prohibits the use of metallic additives in gasoline and gasoline-oxygenate blends. It was emphasized that from a technology standpoint, today's automobile is the most sophisticated piece of equipment owned by most consumers. Vehicles are extremely complex products that are asked to function in the harshest climates and road conditions, under a wide range of speeds and driving styles. Nissan emphasized that in addition to their corporate headquarters, they have over 10,000 jobs in the state, including an engine plant, and that they were very much in support of the rules being put forth by the Department.

Departmental Response: At this time the Department agrees and has updated language based upon the suggested revisions. However, as discussed under the departmental response to the Afton Chemical Comments, the Department's position is that it is prudent to place a temporary moratorium on the use of metallic additives in gasoline rather than a permanent prohibition as originally proposed and supported by the group.

Mr. Scott Fenwick, National Biodiesel Board, provided comments based upon written letters that were submitted. The National Biodiesel Board generally supports the proposed. Comments recommending changes are discussed in other sections where similar comments are grouped together.

Emily LeRoy, Tennessee Fuel and Convenience Store Association, provided comments based upon a letter that she submitted to the Department for review. Ms. LeRoy began by complimenting the Department for going over and aboveboard to make sure that our process was open and fair to all stakeholders. Comments suggesting changes to the proposed rule are discussed in other sections where similar comments were made. Additionally, Ms. LeRoy asked for a written response from the Department regarding street side price postings when various ethanol blends are offered for sale by a single retail location.

Departmental Response: The request for a written response from the Department regarding street side price postings when various ethanol blends are offered for sale by a single retail location is outside the scope of the proposed rules and the Association should direct this question to the Department under a separate heading.

The American Petroleum Institute, Colonial Pipeline, Shell Oil Products US, Marathon Petroleum Company LP, ExxonMobil Refining and Supply, Phillips 66 the National Biodiesel Board, and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.02 (2)(a) regarding low temperature operability of diesel fuel. The opposition to the proposed rule is based upon the fact that the language being considered references a non-mandatory section of the ASTM specification for diesel fuel and would redefine this section as being mandatory for fuels conveyed for consumption in Tennessee. Comments note that the proposal conflicts with existing pipeline diesel fuel specifications and that historically, fuel suppliers have successfully adjusted the use of additives and blending of lighter distillates as the weather dictates. Therefore, it is felt that the regulation is unnecessarily restrictive and could impact the price and availability of diesel fuel. The National Biodiesel Board emphasized that because diesel fuel would be the primary component of biodiesel blends and therefore the major contributor to cold flow operability of such fuels, they would oppose any special restrictions on fuels that contained biodiesel.

Departmental Response: The Department has considered the comments from these stakeholders. At this time, the Department agrees to amend the proposed regulation for all diesel fuel and place this restriction only on fuels marketed as Premium Diesel, a requirement that Tennessee has historically adopted in rule and is consistent with nationally recognized standards for Premium Diesel. The Department will continue to monitor the suitability of winter diesel and if low temperature operability issues are observed, the Department will revisit this topic and consider amending the rule accordingly.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply, Phillips 66 and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.02 (2)(a) regarding diesel fuel haze rating and the phrase "clear and bright". Comments focus on the opinion that the requirement, if adopted, should only apply to points downstream of the distribution terminal. Comments also suggested that the phrase "clear and bright" may not be appropriate as some may interpret a haze rating of 2 to be less stringent than "clear and bright" may imply. Comments also suggested that this requirement may hinder delivery of fuel into the state.

Departmental Response: At this time, the Department agrees that the current wording, which includes the phrase "clear and bright" coupled with the haze rating requirement, can be revised. The primary concern regarding delivery of fuel into the state and the fact that a supplier may be holding fuel that is not being offered for sale that does not meet the haze rating requirement can be alleviated by amending the section in a manner that better clarifies the intent. The Department disagrees with the suggestion that the requirement should only apply to retail. It would be unfair to permit a supplier or refiner to legally provide a retailer with fuel that does not meet retail standards. The Department does not currently perform haze ratings on diesel on a routine basis; however, we have had numerous events in the past whereby consumers sustained severe damage and costly repairs to diesel engines and the fuel samples collected at retail had only one unusual characteristic; the sample was hazy. The Department has amended this section in a manner that we believe will ensure protection to the consumer and at the same time is fair to all industry stakeholders.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply, Shell Oil Products US, Marathon Petroleum Company LP Phillips 66 and BP Products North America (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.03 (2)(d) regarding gasoline and gasoline-oxygenate blend grade terms. Comments focus on the proposed requirement that an antiknock index (AKI), commonly referred to as octane, be declared on product transfer documents for Subgrade/Conventional Blendstock for Oxygenate Blending (CBOB) products. Commenters believe that the supplier should only be required to declare an AKI that the fuel will possess after the addition of the appropriate oxygenate (example: ethanol). Requiring additional information on the blendstock could influence pipeline supplies. It was also recommended that if the Department proceeds with this requirement, to clarify that our enforcement will only be downstream of pipeline receipts.

Departmental Response: It has been the understanding of the Department that the fuel products in question are considered "automotive fuel" and thus is subject to the requirements for declaring the Automotive Fuel Rating under 16 C.F.R. Part 306. This understanding is based upon a letter dated August 12, 2011 from the FTC staff attorney that was in charge of the rule at that time. However, in order to provide more time for this to be fully examined and resolved on a national level by industry, at this time the Department agrees to amend the language in the proposed regulation so that the requirement will only reference existing federal law. The Department also agrees that the Tennessee rule will only be enforced from the supplier terminal to the wholesalers. Language in the proposed rules has been amended accordingly. By making this change, Tennessee is clearly not an island and no "boutique" fuel will be required as our requirement will be consistent with federal requirements.

The American Petroleum Institute, Colonial Pipeline, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.08 regarding Test Methods, Reproducibility and Conformance to Specifications. The comments received suggested that it is more appropriate to recognize the full reproducibility of a test method in determining the conformance to the specification limits contained in each product specification. Comments suggested that the use of ASTM D3244 "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications" was not supported from a national perspective.

Departmental Response: At this time, the Department disagrees with these comments. ASTM D3244 is widely recognized as the technically correct method for determining compliance with a specification. The standard is referenced in nationally recognized publications, such as the National Institute of Standards and Technology Handbook 130. ASTM D3244 is widely accepted throughout the fuel production and supply industry as the de facto standard for purposes of specification conformance; therefore, the Department's position is that this standard should be the formal basis for our fuel quality program.

The American Petroleum Institute, Shell Oil Products US, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.01(34) regarding the definition of Liquefied Natural Gas (LNG). The comments point out an error in the defined temperature at which LNG is liquefied.

Departmental Response: The Department concurs and had previously made this change in the proposed regulation.

The American Petroleum Institute, Shell Oil Products US, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), BP Products North America (by reference to support of the American Petroleum Institute comments) and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted consistent comments on the following proposed rule section:

Proposed Rule 0080-05-12-.04 (3)(c) and (d) regarding filtration systems at airport fueling facilities. The comments suggested that although the Joint Inspection Group is well recognized internationally, their standards are not adopted within the United States. In the United States, the Airlines for America trade association has adopted relevant standards for filtration and our rules should be based on those as opposed to the standards developed by the Joint Inspection Group.

Departmental Response: The Department investigated the recommendations and has made appropriate edits to the section regarding filtration systems at airport fueling facilities.

BP Products North America Inc., The American Petroleum Institute, the Tennessee Fuel and Convenience Store Association, ExxonMobil Refining and Supply (by reference to support of the American Petroleum Institute comments), and Phillips 66 (by reference to support of the American Petroleum Institute comments) submitted comments on the following proposed rule:

Proposed Rule 0080-05-12-.03 (1)(e) regarding dispenser nozzle grip guard colors. The proposed rule would require that diesel and biodiesel blend dispenser nozzles are equipped with green grip guards and ethanol flex fuel dispenser nozzles be equipped with yellow grip guards. BP believes that this requirement is too restrictive and that the consumer should be responsible for reading the labeling on the dispenser before assuming anything about the fuel, and that the requirement for colored grip guards would not in the end lead to more misfueling as consumers travel from state to state.

Departmental response: At this time, the Department partially agrees with the comments received. After consideration of the comments, the Department's position is that it is currently acceptable to remove the requirement for diesel dispenser nozzles to be equipped with green grip guards. The Department will monitor misfueling events whereby the consumer attributes the misfueling to the color of the grip guard, and will revisit this

topic in the future should recurring misfuelings of gasoline into diesel vehicles occur. The Department disagrees with the recommendation regarding the requirement for yellow grip guards. Since the introduction of high lever ethanol blend fuel, industry has voluntarily institutionalized the use of yellow grip guards on fuels that are only suitable for use in ethanol flexible fuel vehicles. Therefore, the Department's position is that it is appropriate to preserve yellow grip guards for use with ethanol flex fuels only.

The Renewable Fuels Association (RFA) and Marathon Petroleum Company LP submitted comments on the following proposed rule:

Proposed rule 0080-05-12-.03 (h) regarding submission of a marketing plan for fuels containing more than 10% by volume ethanol. The comments suggested that the marketing plan requirement for all fuels greater than 10% by volume is not necessary as consumers are already sensitive to ethanol flex fuel that is in the market and through labeling and other precautions. It was pointed out that the requirements of the proposed marketing plan are already required by law and enforced by various state Departments, and indeed apply to every fuel in the marketplace. The detailed labeling requirements required by other sections in the rule coupled with the mandatory EPA labeling and misfueling mitigation plan submission make this proposal redundant and will not be effective. It was also noted that enforcement of this component in a consistent manner would be dependent on the continued leadership and cooperation from the Department; therefore, it was recommended that this section be removed.

Departmental Response: At this time the Department agrees to remove this section of the proposed rule. The Department will monitor the market as the inevitable introduction of higher level ethanol blends are marketed in Tennessee. Should the Department believe that consumers are misfueling due to confusion at the retail dispenser, the Department will revisit this topic and consider reintroducing this requirement at a later date.

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) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Wholesalers and retailers of engine and heating fuels.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are approximately 260 fuel wholesalers. There are approximately 4578 retail outlets. Based upon industry estimates, wholesalers own 60% of the retail fuel outlets.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The department does not project any additional recordkeeping will be required as a result of these amended rules.

- (4) Statement of the probable effect on impacted small businesses and consumers:

The proposed rules will have a positive impact on both small business and consumers. The rules include expanding the range of gasoline-ethanol blends that can be offered to Tennessee consumers by recognizing gasoline that contains up to 15% ethanol for use in certain conventional vehicles, allowing mid-level ethanol blends for flexible-fuel vehicles, and overall housekeeping that updates our rules in order to be more consistent with the National Conference on Weights and Measures uniform engine fuel regulation. This uniformity will make it easier for companies that do business in multiple states and also assist consumers in making informed choices.

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

The Department has not identified any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist. Tennessee Code Annotated § 47-18-1309 (a) mandates that the Department of Agriculture shall promulgate such rules as may be necessary to effectively and efficiently administer and enforce the provisions of the Kerosene and Motor Fuels Quality Inspection Act. This State law established quality inspection standards for petroleum products. Tennessee Code Annotated § 47-18-1309 (b) provides guidance as to the minimum content of the rules. Additionally, Tennessee Code Annotated § 4-3-203 (10)(A) provided the department with the power to promulgate rules and regulations necessary to effectuate the purposes, duties and responsibilities of the department. The Department has worked closely with all regulated stakeholders and feels that the updated rules are appropriate and acceptable to industry.

- (6) Comparison of the proposed rule with any federal or state counterparts:

There are no other federal or state counterparts that encompass all the elements contained within these proposed rules.

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

T.C.A. 47-18-1305(b)(1) stipulates that "The department shall, at least once each year, inspect and collect at least one (1) sample for testing from each location from which a person conveys kerosene or motor fuel for consumption in Tennessee. Subject to availability of resources, the department may inspect any such location more frequently than once each year and may test a greater number of samples. If transactions occurring at a particular location total an average of less than three hundred (300) gallons per month, then annual inspection and testing of the location shall not be required.

While this section does not specifically exempt a location with average transactions of less than 300 gallons per month, it does provide regulatory flexibility. A consumer's vehicle is one of the most expensive purchases that a typical person will ever purchase; therefore, the department believes that all businesses that convey fuel should be responsible for providing a fit-for-purpose material that will not adversely impact the performance or durability of a vehicle.

Impact on Local Governments

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

The proposed updated rules will have no direct impact on local governments.

The Department of Agriculture filed a letter of clarification about this rule filing on 11/4/14. The Department indicated that the language in the rule filing 09-06-14 is correct and that the redline version should not be considered when amending Chapter 0080-05-12. Go to page 54 to see the clarification letter.

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Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Department of Agriculture
Division:	Consumer and Industry Services
Contact Person:	K. David Waddell
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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
0080-05-12	Kerosene and Motor Fuels Quality Inspection Regulations
Rule Number	Rule Title
0080-05-12-.01	Definitions
0080-05-12-.02	Standard Specifications
0080-05-12-.03	Classification and Method of Sale
0080-05-12-.04	Water in Retail Tanks and Dispenser Filters
0080-05-12-.05	Retail Product Storage Identification
0080-05-12-.06	Condemned Product
0080-05-12-.08	Test Methods, Reproducibility and Conformance to Specifications
0080-05-12-.09	Sampling of Petroleum Products
0080-05-12-.10	Disposition of Sample Retains

Chapter 0080-05-12
 Kerosene and Motor Fuels Quality Inspection Regulations

Amendments

Rule 0080-05-12-.01 Definitions is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) "ASTM" (Formerly The American Society for Testing and Materials) means ASTM International, the international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services and the promotion of related knowledge.
- (2) "Antiknock Index (AKI)" means the arithmetic average of the Research Octane Number (RON) and

Motor octane number (MON): $AKI = (RON+MON)/2$. This value is called by a variety of names, in addition to antiknock index, including: Octane rating, Posted octane, $(R+M)/2$ octane.

- (3) "Automotive Fuel Rating" or "fuel rating" means the automotive fuel rating required under the amended Octane Certification and Posting Rule (or as amended, the Fuel Rating Rule), 16 CFR Part 306. Under this rule, sellers of liquid automotive fuels, including alternative fuels, must determine, certify, and post an appropriate automotive fuel rating. The automotive fuel rating for gasoline and gasoline blending stock is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired. For non-liquid alternative fuels not covered under 16 CFR Part 306, those covered under 16 CFR Part 309 shall be covered under this fuel rating definition.
- (4) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines generally containing small amounts of fuel additives and also commonly used in marine and nonautomotive applications.
- (5) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.
- (6) "Aviation Turbine Fuel" means a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.
- (7) "Biodiesel" (Biodiesel Fuel Blend Stock) means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.
- (8) "Biodiesel Blend" means a fuel comprised of a blend of more than five percent by volume or more biodiesel with petroleum-based diesel fuel, that may contain fuel additives.
- (9) "Butanol" means butyl alcohol, the chemical compound C_4H_9OH , a colorless substance existing in four isomeric forms.
- (10) "CBOB" means Conventional Blendstock for Oxygenate Blending, gasoline blendstock which could become a conventional gasoline-oxygenate blend solely upon the addition of an oxygenate.
- (11) "Cetane Number" means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
- (12) "Commissioner" means the Commissioner of the Tennessee Department of Agriculture or a departmental employee designated by the Commissioner to act as his representative for purposes of these rules.
- (13) "Compressed Natural Gas (CNG)" means natural gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel.
- (14) "Conventional-Fuel Vehicle" means a vehicle designed to operate on spark-ignition engine fuel that complies with ASTM D4814 standards.

Note: This definition is for the purpose of these regulations. Diesel vehicles may operate on conventional compression-ignition engine fuel. Diesel fuel and diesel engines are outside the scope of this definition.
- (15) "Denatured Fuel Ethanol" means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.
- (16) "Department" means the Tennessee Department of Agriculture.

- (17) "Diesel Fuel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine that may contain fuel additives.
- (18) "Ethanol Flex Fuel" means a blend of ethanol and hydrocarbons restricted for use as fuel in ground vehicles equipped with ethanol flexible-fuel spark-ignition engines.
- (19) "Engine Fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine that meets the applicable product specification.
- (20) "EPA" means the United States Environmental Protection Agency.
- (21) "Ethanol" also known as denatured fuel ethanol and ethyl alcohol, means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.
- (22) "Flexible-Fuel Vehicle" means a vehicle designed to operate on either unleaded gasoline or ethanol flex fuel blends or mixtures or both. Flexible-Fuel Vehicles may also be designed to run on M85 Fuel Methanol.
- (23) "Fuel Additive" means a material added to a fuel in small amounts not to exceed 1.0 percent by volume to impart or enhance desirable properties or to suppress undesirable properties.
- (24) "Fuel Oil" means refined oil middle distillates, heavy distillates, or residues of refining, or blends of these, suitable for use as a fuel for heating or power generation that may contain fuel additives.
- (25) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of fuel additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (26) "Gasoline-Oxygenate Blend" means a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent oxygen, or more than 0.15 mass percent oxygen if methanol is the oxygenate) of one or more oxygenates not to exceed the total oxygen content permitted by applicable laws and regulations.
- (27) "Hydrogen Fuel" means a fuel composed of the molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.
- (28) "Internal Combustion Engine" means a device used to generate power by converting chemical energy bound in the fuel via spark-ignition or compression ignition engine combustion into mechanical work to power a vehicle or other device.
- (29) "Kerosene (or Kerosine)" means refined oil intended for heating or illuminating use.
- (30) "Lead Substitute" means an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.
- (31) "Lead Substitute Engine Fuel" means, for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute".
- (32) "Leaded" means, for labeling purposes, any gasoline or gasoline-oxygenate blend which contains more than 0.013 gram lead per liter (0.05 g lead per U.S. gal).
- NOTE: EPA defines leaded fuel as one which contains more than 0.0013 gram phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.
- (33) "Liquefied Natural Gas (LNG)" means natural gas that has been liquefied at -162 °C (-260 °F) and stored in insulated cryogenic tanks for use as an engine fuel.

- (34) "Liquefied Petroleum Gas (LPG)" means a mixture of normally gaseous hydrocarbons, predominantly propane, that has been liquefied by compression or cooling, or both to facilitate storage, transport, and handling for use as a motor fuel.
- (35) "Low Temperature Operability" means a condition which allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.
- (36) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.
- (37) "M85 Fuel Methanol" means automotive spark-ignition engine fuel blends of methanol and hydrocarbons, for use in ground vehicles equipped with M85 flexible-fuel spark-ignition engines.
- (38) "Motor Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D2700 Motor Method engine test.
- (39) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.
- (40) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.
- (41) "Person" means an individual, partnership, corporation, company, firm, association or other business entity.
- (42) "Racing Gasoline" means a specialty product similar in nature to automotive gasoline except that it is typically of lower volatility, has a narrower boiling range and a higher antiknock index, and is generally free of significant amounts of oxygenates. It is designed for use in vehicles with high compression engines, generally for racing purposes.
- (43) "Refinery" means any facility, including but not limited to, a plant, tanker truck or vessel where gasoline or diesel fuel is produced, including any facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.
- (44) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D2699 Research Method engine test.
- (45) "Thermal Stability" means the ability of a fuel to resist the thermal stress which is experienced by the fuel when exposed to high temperatures in a fuel delivery system. Such stress can lead to formation of insoluble gums or organic particulates. Insolubles (gums or organic particulates) can clog fuel filters and contribute to injector deposits.
- (46) "Total Oxygenate" means the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Chapter.
- (47) "Unleaded" in conjunction with "engine fuel" or "gasoline" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram phosphorus per liter phosphorus per U.S. gal.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.02 Standard Specifications is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Gasoline and Gasoline-Oxygenate Blends (as set forth in this regulation) shall meet the following requirements:

- (a) The most recent version of ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" except for the permissible offsets for ethanol blends as provided in section 0080-5-12-.02 (1)(b).
- (b) Gasoline-Ethanol Blends - When gasoline is blended with ethanol, the ethanol shall meet the latest version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Fuel" and the final blend shall meet the latest version of ASTM D4814 "Standard Specification for Automotive Spark-Ignition Engine Fuel" with the following permissible exceptions. The maximum vapor pressure shall not exceed the ASTM D4814 limits by more than:
 - 1. 1.0 psi for blends containing 9 to 10 volume percent ethanol from June 1 through September 15, in accordance with 40 CFR Part 80.27(d);
 - 2. 1.0 psi for blends containing one or more volume percent ethanol for volatility Classes A, B, C and D from September 16 through May 31;
 - 3. 0.5 psi for blends containing one or more volume percent ethanol for volatility Class E from September 16 through May 31;
 - 4. The vapor pressure exemptions in subsections 0080-5-12-.02 (1)(b)1-3 will remain in effect until May 1, 2016 or until ASTM incorporates changes to or confirms the current limits to the vapor pressure maximums for ethanol blends, whichever occurs first.
- (c) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall be those permitted by EPA under Section 211 of the Clean Air Act and applicable waivers. All conditions stipulated in the EPA waivers also apply. Gasoline-oxygenate content specifications based on vehicle performance and operability that are stipulated within ASTM D4814 will govern when those limits are more restrictive than those established by EPA for purposes of controlling emissions and the durability of emissions related equipment.
- (d) Minimum Antiknock Index - the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper or other documentation.
- (e) Minimum Motor Octane Number - the minimum motor octane number shall not be less than 82 for gasoline or gasoline-oxygenate blends.
- (f) Minimum Lead Content to Be Termed (Leaded) - gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).
- (g) Lead Substitute Gasoline - gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).
 - 1. Documentation of Exhaust Valve Seat Protection - upon the request of the Commissioner, the lead substitute additive manufacturer shall provide documentation to the Commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g/gal) lead.
 - 2. The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:
 - (i) Test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act, or;
 - (ii) Until such a time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear,

test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

- (h) Blending - Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.
- (2) Diesel Fuel shall meet the most recent version of ASTM D975, "Standard Specification for Diesel Fuel Oils".
- (a) Diesel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25°C (77°F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply.
 - (b) Premium Diesel Fuel - All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers or other documentation with terms such as premium, super, supreme, plus or premier must conform to the following requirements:
 - 1. Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D613.
 - 2. Low Temperature Operability - A cold flow performance measurement which meets the ASTM D975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D2500 (Cloud Point) or ASTM Standard Test Method D4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
 - 3. Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D6468 (180 minutes, 150 °C [302 °F]).
 - 4. Lubricity - A maximum wear scar diameter of 520 microns as determined by ASTM D6079. If an enforcement jurisdiction's single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this part.
- (3) Aviation Turbine Fuels shall meet the most recent version of the following standards, as applicable:
- (a) ASTM D1655, "Standard Specification for Aviation Turbine Fuels".
 - (b) ASTM D7223, "Standard Specification for Aviation Certification Turbine Fuel".
 - (c) ASTM D7566, "Standard Specification for Aviation Turbine Fuel Containing Synthesized Hydrocarbons".
 - (d) ASTM D6615, "Standard Specification for Jet B Wide-Cut Aviation Turbine Fuel".
- (4) Aviation Gasoline shall meet the most recent version of the following standards, as applicable:
- (a) ASTM D910, "Standard Specification for Aviation Gasoline".
 - (b) ASTM D6227, "Standard Specification for Grades UL82 and UL87 Unleaded Aviation Gasoline".
 - (c) ASTM D7547, "Standard Specification for Unleaded Only Aviation Gasoline".
- (5) Fuel Oils shall meet the most recent version of ASTM D396, "Standard Specification for Fuel Oils".
- (6) Kerosene (Kerosine) shall meet the most recent version of ASTM D3699, "Standard Specification for Kerosine".

- (7) Ethanol intended for blending with gasoline shall meet the most recent version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel".
- (8) Liquefied Petroleum (LP) Gases Intended for Use as Motor Fuel shall meet ASTM D1835, "Standard Specification for Liquefied Petroleum (LP) Gases".
- (9) Ethanol Flex Fuel blends are covered by one of two ASTM standards based upon the ethanol concentration of the blend:
 - (a) Ethanol Flex Fuel blends containing 51 to 83 volume percent ethanol shall meet the latest version of ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines"; and
 - (b) Ethanol Flex Fuel Blends containing 16 to 50 volume percent ethanol shall be blended, stored and conveyed for consumption in accordance with the recommendations and requirements included in the latest version of ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible-Fuel Vehicles with Automotive Spark-Ignition Engines". ASTM D4814 does not apply to this classification of fuel.
- (10) M85 Fuel Methanol shall meet the most recent version of ASTM D5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark-Ignition Engines".
- (11) Racing Gasoline shall meet the following requirement:
 - (a) Minimum Antiknock Index - the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper or other documentation.
 - (b) The minimum product specifications shall be those as declared by the manufacturer's product specifications. Upon the request of the Commissioner, each conveyor of racing gasoline shall provide the Department with a copy of the manufacturer's product specifications.
- (12) Biodiesel (Biodiesel Fuel Blend Stock) intended for blending with diesel fuel shall meet the most recent version of ASTM D6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels." All biodiesel blend stock shall be at least 99% biodiesel (no more than 1% diesel fuel). Any blend stock less than 99% biodiesel shall not be used as a commercial blend stock for biodiesel blends without the permission of the Commissioner.
- (13) Biodiesel Blends and Diesel Fuel Containing Biodiesel - All blends of biodiesel and diesel fuels shall be blended with biodiesel blend stock that meets the requirement of 0080-05-12-.02 (12), and also shall meet the following requirements:
 - (a) Blends that contain less than or equal to 5 % by volume biodiesel must meet the latest version of ASTM D975, "Standard Specification for Diesel Fuel Oils" and shall be sold as diesel fuel. In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;
 - (b) Blends greater than 5 % by volume biodiesel and less than or equal to 20 % by volume biodiesel shall meet the most recent edition of ASTM D7467 "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)". In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply;

- (c) Biodiesel Conveyed at Public Retail Sale Points - Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20 % by volume.
- (14) Hydrogen Fuel for Fuel Cell Vehicles shall meet the most recent edition of SAE J2719 "Hydrogen Fuel Quality for Fuel Cell Vehicles". At such time that ASTM establishes a standard for Hydrogen fuel, the most recent edition of the ASTM standard specification(s) shall replace SAE J2719 as the Standard Specification for Hydrogen Fuel Quality.
- (15) Compressed Natural Gas shall meet the most recent edition of SAE J1616, "Recommended Practice for Compressed Natural Gas Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (16) Liquefied Natural Gas Vehicle Fuel shall meet the most recent edition of SAE J2699 "Liquefied Natural Gas (LNG) Vehicle Fuel". At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (17) Butanol for Blending with Gasoline shall meet the most recent edition of ASTM D7862, "Standard Specification for Butanol Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel".
- (18) Dimethyl Ether for Fuel Purposes shall meet the most recent edition of ASTM D7901 "Standard Specification for Dimethyl Ether for Fuel Purposes."
- (19) Fuel Additives applied to products included in these regulations must be used in accordance with the definition of a fuel additive as stated in Section 0080-05-12-.01 Definitions.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.03 Classification and Method of Sale is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

(1) General Considerations

- (a) Documentation - when products regulated by this rule are sold, product transfer documents such as an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a retail sale. This document must identify the quantity, the name of the product, the particular grade of the product, the automotive fuel rating (fuel rating), as applicable, the manganese or MMT content when applicable, the oxygenate type and content when applicable, the name and address of the seller and buyer, and the date and time of the sale. Documentation must be retained at the retail establishment for a period not less than 30 days.
- (b) Retail Dispenser Labeling - all retail gasoline and gasoline-oxygenate blend dispensing devices must be labeled or otherwise decaled in such a manner that the type of product being offered is clear and conspicuous to the potential customer and must be labeled with the particular grade of the product, and the applicable automotive fuel rating. All retail dispensing devices of other products covered by this regulation must be labeled with the name of the product (e.g., diesel), the particular grade of the product (with exceptions noted within these rules) and the automotive fuel rating (fuel rating), as applicable.
- (c) Grade Name - the sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or grade indicated in the grade name is consistent with the value and meets the requirements of 0080-05-12-.02, Standard Fuel Specifications.
- (d) Each retail dispenser must be identified by a number, other than or in addition to a serial number, permanently affixed to the dispenser.
- (e) Dispenser Nozzle Grip Guard Colors - all retail ethanol flex-fuel dispensers shall be equipped with yellow grip guards; no other product nozzles shall be equipped with yellow grip guards. All dispensers must be compliant with this requirement by May 1, 2016.

- (f) Nozzle Requirements for Fuel Dispensers - each retail dispensing device from which fuel products are sold shall be equipped with a nozzle spout having a diameter that conforms to the latest version of SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark-Ignition and Compression Ignition Engines." All dispensers must be compliant with this requirement by May 1, 2016.

(2) Automotive Gasoline, Automotive Gasoline-Oxygenate Blends, and Racing Gasoline

- (a) Posting of Antiknock Index Required - all dispensing devices of automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (b) When the Term "Leaded" May be Used - the term "leaded" shall only be used when the fuel meets specification requirements of 0080-05-12-.02 (f).
- (c) Use of Lead Substitute Must Be Disclosed - each dispensing device from which gasoline or gasoline-oxygenate blend containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height and 1.5 millimeter (1/16 in) stroke (width of type). The color of the lettering shall be in definite contrast to the background color to which it is applied.
- (d) Gasoline and Gasoline-Oxygenate Blend Grade Terms:
 - 1. It is prohibited to use the following terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the following minimum antiknock index requirement:
 - (i) Premium, Super, Supreme, High Test, Premier, Ultra, Ultimate must be a minimum of 91 AKI;
 - (ii) Midgrade, Plus, Extra, or other approved terms, must be a minimum of 89 AKI;
 - (iii) Regular, Leaded must be a minimum of 89 AKI;
 - (iv) Regular, Unleaded must be a minimum of 87 AKI;
 - (v) Unleaded Subgrade - CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;
 - (vi) Premium Subgrade - CBOB - AKI as applicable pursuant to 16 C.F.R. Part 306;
 - 2. The use of any other term not listed above in (2)(d) to describe a grade of gasoline must be approved by the Commissioner.
 - 3. Additional Unleaded Subgrade - CBOB Requirements: The grade terms "Unleaded Subgrade - CBOB" and "Premium Subgrade - CBOB" are grades that are approved for conveying from supplier terminal level to wholesalers. These fuel grades are not approved as grade terms and fuel ratings for retail sales.
 - 4. In addition to the requirements of 0080-05-12-.03 (2)(d) 1.(v) - (vi), each of the subgrades/CBOBs must declare the minimum AKI that the fuel will provide after the addition of a specified volume of ethanol. Other oxygenates and octane extender declarations may supplement the ethanol AKI declaration. The requirements of 0080-05-12-.03 (2)(d) 1.(v) - (vi) are applicable when conveying from the supplier terminal to wholesalers or from wholesaler to another wholesaler. Such reporting is not subject to enforcement under these rules for conveyances from pipelines to supplier terminals.
 - 5. When fuels containing greater than 10 % by volume ethanol for use in conventional-fuel vehicles are offered for sale, the grade terms listed above or otherwise approved by the Commissioner must be followed by the term "EXX". For example, "Regular E15";

"Plus E15"; "Premium E15".

6. When gasoline or gasoline-oxygenate blends are conveyed through a fuel dispenser, the grade terms must be posted accurately on both the fuel dispenser and street pricing signs, where applicable. This includes the grade extension of EXX where applicable.
 7. When gasoline or gasoline-oxygenate blends are conveyed through wholesale bulk metering systems, each grade and associated automotive fuel rating at each fuel loading facility shall be posted or otherwise accurately certified to potential customers and to the Commissioner when performing inspections and sampling.
- (e) Method of Retail Sale: Type of Oxygenate Must be Disclosed - all automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold, at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE". The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers" or alternatively post the phrase "contains MTBE or other ethers". In addition, gasoline methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol along with the statement "CHECK OWNER'S MANUAL". This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). Racing gasoline being kept, offered, or exposed for sale, or sold at retail containing any amount of oxygenates shall be identified as "with" or "containing" (or similar wording) the particular oxygenate or oxygenates in the engine fuel, along with the volume percent of the oxygenate, the type and stroke being consistent with this paragraph. Where mixtures of only ethers are present, the retailer may post the volume percent of the predominant oxygenate followed by the phrase "or other ethers".
- (f) Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation:
1. Information that complies with 40 CFR § 80.1503 when the fuel contains ethanol.
 2. For fuels that do not contain ethanol, information that complies with 40 CFR § 80.1503 and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers."
 3. Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol.
 4. For Racing Gasoline, the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the concentration of the oxygenate or oxygenates present in the fuel to allow for accurate dispenser labeling.
- (g) EPA Labeling Requirements Also Apply - Retailers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10% by volume and up to 15% by volume under CFR § 80.1501.
- (h) Method of Retail Sale: Posting of Manganese Additives Must be Disclosed - all gasoline or gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail that contain any Manganese or any compound containing Manganese, including, without limitation, MMT, shall be labeled as follows:

1. WARNING: Read Label Before Dispensing Fuel. This Fuel Contains Manganese, Manganese Compound, or MMT. Recommend Vehicle Operator Consult Owner's Manual Before Using This Fuel.
2. This label shall:
 - i. Be legible and conspicuous, placed on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position.
 - ii. Consist of black lettering on a white background.
 - iii. Be written in font at least 8 millimeters (5/16 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - iv. Be affixed to the applicable pump or other device for dispensing gasoline or gasoline-oxygenate blends (1) at the time gasoline or gasoline-oxygenate blends containing manganese or any compound containing manganese, including, without limitation, MMT, is loaded into or otherwise placed in a storage tank from which the dispenser or other device for dispensing gasoline or automotive gasoline-oxygenate blends draws its supply of fuel; (2) before the dispenser or other device for dispensing motor vehicle fuel may be used to dispense such fuel; (3) for 6 months immediately after the time the intentional addition of manganese or any compound containing manganese, including, without limitation, MMT is discontinued.
3. As used in these rules, MMT means methylcyclopentadienyl manganese tricarbonyl.
 - (i) Documentation for Dispenser Labeling Purposes - Notification to Fuel Distributors and Retailers
 1. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.
 2. The retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation a declaration of Manganese or any compound containing Manganese, including, without limitation, MMT.
 3. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will no longer contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.
 - (3) Diesel Fuel
 - (a) Labeling of Grade Required - Diesel Fuel shall be identified by grades No. 1-D, No. 2-D, or No. 4-D. For grades other than No. 2-D, each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed.
 - (b) Location of Label - these labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - (c) All conveyors of diesel fuel shall also comply with the EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(4) Aviation Turbine Fuel

- (a) How to Identify Aviation Turbine Fuels - aviation turbine fuels shall be identified by the grade terms contained within the applicable ASTM Standard Specifications.
- (b) Labeling of Grade Required - each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled conspicuously as to identify the product being sold as classified above.

(5) Aviation Gasoline

- (a) How to Identify Aviation Gasoline - aviation gasoline shall be identified by the grade terms contained within the applicable ASTM Standard Specifications.
- (b) Labeling of Grade Required - each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled conspicuously as to identify the product being sold as classified above.

(6) Fuel Oils

- (a) How to Identify Fuel Oils - fuel oil shall be identified by the term Fuel Oil along with the grades of No. 1 S500, No. 1 S5000, No. 2 S500, No. 2 S5000, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.
- (b) Labeling of Grade Required - each retail dispenser or delivery truck dispensing fuel oil shall be labeled conspicuously as to identify the product being sold as classified above. In addition, retail Fuel Oil dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K Kerosene". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeter (1/16 in) stroke (width of type); block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(7) Kerosene (Kerosine)

- (a) How to Identify Kerosene - kerosene shall be identified by the grades No. 1-K or No. 2-K.
- (b) Labeling Requirements - each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K. In addition, No. 2-K dispensers shall display the following legend:

"Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1- K". The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) stroke (width of type); block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(8) Ethanol Flex Fuel

- (a) How to Identify Ethanol Flex Fuel - ethanol flex fuel shall be identified by the term Ethanol Flex-Fuel or EXX Ethanol Flex Fuel.
- (b) Retail Dispenser Labeling - each retail dispenser of ethanol flex fuel shall be labeled under the following alternatives:
 - 1. Ethanol Flex Fuel blends with an ethanol concentration no less than 51 and no greater than 83 percent by volume shall be labeled "Ethanol Flex Fuel, minimum 51% ethanol" or "EXX Ethanol Flex Fuel", where XX is the target ethanol concentration in volume percent and the actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;
 - 2. Ethanol Flex Fuel blends with an ethanol concentration less than or equal to 50 volume percent shall be labeled "EXX Ethanol Flex Fuel", where the XX is the target ethanol

concentration in volume percent. The actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;

3. A label shall be posted which states "For Use in Flexible Fuel Vehicles (FFV) Only". This information shall be clearly and conspicuously posted on the upper 50% of the dispenser front panel in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). The label shall also state "CHECK OWNER'S MANUAL" in a type at least 6.5 millimeters (¼ in) in height and 1 millimeter (3/64 in) stroke. The color of the wording shall be in definite contrast to the background color to which it is applied.

(9) Fuel Methanol

- (a) How to Identify Fuel Methanol - fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (Example: M85).
- (b) Retail Dispenser Labeling - each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol" (Example: M85 Methanol).
- (c) Additional Labeling Requirements - Fuel Methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306. Additionally, a label shall be posted which states "CHECK OWNER'S MANUAL - For Use in Methanol Variable Fuel Vehicles (VFV) Only". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

(10) Liquefied Petroleum Gas (LPG):

- (a) How to Identify Liquefied Petroleum Gas - liquefied petroleum gases intended for use as a motor fuel shall be identified by grades Commercial Propane or Special-Duty Propane (HD5).
- (b) Retail Dispenser Labeling - each retail dispenser of liquefied petroleum gases intended for use as a motor fuel shall be labeled as "Commercial Propane" or "Special-Duty Propane (HD5)".
- (c) Additional Labeling Requirements - liquefied Petroleum Gas intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(11) Racing Gasoline

- (a) How to Identify Racing Gasoline - racing gasoline shall be identified as Racing Gasoline.
- (b) Posting of Antiknock Index Required - all dispensing devices of racing gasoline shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (c) Method of Retail Sale - Type of Oxygenate Must be Disclosed - all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 percent by mass oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in.) in height and 1.5 millimeter (1/16") stroke (width of type).
- (d) Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel.

(12) Biodiesel and Biodiesel Blends

- (a) How to Identify Biodiesel - Biodiesel shall be identified by the term "Biodiesel" with the

designation "B100" or "B99". Biodiesel blends containing more than 5 percent by volume shall be identified by the term "Biodiesel Blend".

(b) Labeling of Dispensers Containing more than Five Percent (5 %) and Up to Twenty Percent (20 %) Biodiesel

1. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20 % by volume shall be identified with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend". (Examples: B10 Biodiesel Blend; B20 Biodiesel Blend, or the phrase "Biodiesel Blend between 5% and 20%" or similar words.)

2. Labeling of Grade Required

(i) Biodiesel shall be identified by the grade terms specified in ASTM D6751.

(ii) Biodiesel Blends shall be identified by the grade terms contained within ASTM D7467. Additionally, the diesel grade component as contained within ASTM D975 for grades other than No. 2-D shall also be identified except the sulfur extension designations are not required (sulfur declarations are required under 0080-05-12-.03 (12)(c)).

3. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20% by volume biodiesel shall display a label that reads "CHECK OWNER'S MANUAL". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at 6.5 millimeters (1/4 in) in height and 1 millimeter (3/64 in) stroke.

(c) All conveyors of biodiesel blends fuel shall also comply with the EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(d) Automotive Fuel Rating - Biodiesel and biodiesel blends shall be certified and labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(e) Documentation of Biodiesel Content on Product Transfer Documents - When biodiesel blends contain more than 5% by volume biodiesel, the retailer shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on product transfer documents such as an invoice, bill of lading, shipping paper or other document.

(13) Compressed Natural Gas

(a) How to Identify Compressed Natural Gas - Compressed natural gas shall be identified by the term "Compressed Natural Gas" or "CNG".

(b) Retail Dispenser Labeling

1. Each retail dispenser of CNG shall be labeled as "Compressed Natural Gas".

2. Each retail dispenser of CNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(14) Liquefied Natural Gas

(a) How to Identify Liquefied Natural Gas - Liquefied natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG".

(b) Retail Dispenser Labeling

1. Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas".

2. Each retail dispenser of LNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(15) Dimethyl Ether

- (a) How to Identify Dimethyl Ether – dimethyl ether intended for use as a motor fuel in engines specifically designed or modified for DME and for blending with liquefied petroleum gas (LPG) shall be identified Dimethyl Ether (DME).
- (b) Retail Dispenser Labeling - each retail dispenser of DME intended for use as a motor fuel shall be labeled as "Dimethyl Ether" or "DME"
- (c) Additional Labeling Requirements – Dimethyl Ether intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.04 Water in Retail Tanks and Dispenser Filters is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Water in Retail Storage Tanks containing Gasoline-Alcohol Blends, Biodiesel, Biodiesel Blends, Ethanol Flex Fuel, Aviation Gas, and Aviation Turbine Fuel - no water phase greater than 6 millimeters (1/4 in) as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, ethanol-flex fuel, aviation gasoline, and aviation turbine fuel.
- (2) Water in Retail Storage Tanks Containing Gasoline, Diesel, and Other Fuels - water shall not exceed 38 millimeters (1.5 in) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends, fuel oils, and kerosene sold at retail.
- (3) Dispenser Filters
 - (a) All gasoline, gasoline-oxygenate blends, Ethanol Flex Fuel, and M85 methanol dispensers shall have a 10 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
 - (b) All kerosene, diesel, biodiesel, and biodiesel blend dispensers shall have a 30 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015.
 - (c) Fuel delivery of aviation turbine fuel and aviation gasoline into aircraft shall be filtered through a fuel filter/separator conforming to API 1581, "Specification and Qualification Procedures for Aviation Jet Fuel Filter/Separators" and ATA Specification 103 "Standard for Jet Fuel Quality Control at Airports", as applicable.
 - (d) All Aviation Gasoline dispensing systems shall be equipped as follows:
 1. At inlets to storage and on fueller loading racks (and hydrant delivery lines), a 5 micron (nominal) or finer Microfilter meeting EI 1590, or a filter water separator.
 2. Where receipts are by gravity into underground tankage, a 100 micron mesh strainer.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.05 Retail Product Storage Identification is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Fill Connection Labeling - the fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained by means of:

- (a) A permanently attached tag or label and;
 - (b) American Petroleum Institute color codes as specified and published in "API Recommended Practice 1637".
- (2) Volume of Product Information - each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the inspector upon request.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.06 Condemned Product is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Stop-Sale Order - a stop-sale order may be issued as a Class One stop-sale order or a Class Two stop-sale order. When a stop-sale order is placed on a terminal or bulk storage plant, the terminal or bulk storage plant operators shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to the product(s) to specification. A list of all parties contacted by the supplier must be provided to the Commissioner. A release from a stop-sale order will be awarded only after final disposition has been agreed upon by the Commissioner. Confirmation of disposition of products shall be made available in writing to the Commissioner.

Authority: T.C.A. § 4-3-203 and § 47-18-1309.

Rule 0080-05-12-.08 Test Methods, Reproducibility and Conformance to Specifications is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) The test methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes. When no ASTM methods exist, accepted industry test methods specified in rule shall be used to determine compliance.
- (2) Premium Diesel - The following test methods shall be used to determine compliance with the applicable premium diesel parameters:
 - (a) Lubricity - ASTM D6079;
 - (b) Cetane Number - ASTM D613;
 - (c) Low Temperature Operability - ASTM D4539 or ASTM D2500 (according to marketing claim);
 - (d) Thermal Stability - ASTM D6468 (180 minutes, 150 °C [302°F]).
- (3) Conformance to Specifications:
 - (a) Conformance to Specifications - The most recent version of ASTM D3244 "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications" shall be used in determining the compliance of a test value to the specification limits except that no allowance shall be made for the precision of test methods for aviation gasoline and aviation turbine fuels or other product specifications whereby the limit as been determined to be a critical specification limit.
 - (b) AKI Limits - when determining the antiknock index (AKI) acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D4814 shall be acknowledged when determining conformance to the specification using ASTM D3244.
 - (c) Tests Other Than AKI - the reproducibility limits of the ASTM or other accepted standard test method used for each test performed shall be acknowledged for determining conformance to the specification using ASTM D3244, except as indicated in 0080-5-12-.08 (2)(a) and in 0080-05-12-.02 (2)(b)4.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 04/25/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/09/14

Rulemaking Hearing(s) Conducted on: (add more dates). 02/28/14

Date: August 11, 2014

Signature: *Julius T. Johnson*

Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: August 11, 2014

Notary Public Signature: *Joyce M. Jackson*

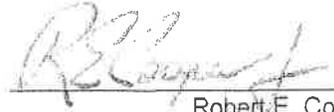


SS-7039 (October 2011)

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My commission expires on: 09/11/2017

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



Robert E. Cooper, Jr.
Attorney General and Reporter

9-2-14

Date

Department of State Use Only

2014 SEP -4 PM 2:02

Filed with the Department of State on: 9-4-14

Effective on: 12-3-14



Tre Hargett
Secretary of State

Redlined

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF MARKETS

CHAPTER 0080-5-12
KEROSENE AND MOTOR FUELS QUALITY INSPECTION REGULATIONS

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0080-5-12-.01 DEFINITIONS.

- (1) "ASTM" (Formerly The American Society for Testing and Materials) means ASTM International, the international voluntary consensus standards organization scientific and technical organization formed for the development of standards on characteristics and performance of materials, products, systems, and services and the promotion of related knowledge.
- (2) "Antiknock Index (AKI)" means the arithmetic average of the Research octane number (RON) and Motor octane number (MON): $AKI = (RON+MON)/2$. This value is called by a variety of names, in addition to antiknock index, including: Octane rating, Posted octane, (R+M)/2 octane.
- (3) "Automotive Fuel Rating" or fuel rating" means the automotive fuel rating required under the amended Octane Certification and Posting Rule (or as amended, the Fuel Rating Rule), 16 CFR Part 306. Under this Rule, sellers of liquid automotive fuels, including alternative fuels, must determine, certify, and post an appropriate automotive fuel rating. The automotive fuel rating for gasoline and gasoline blending stock is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired. For non-liquid alternative fuels not covered under 16 CFR Part 306, those covered under 16 CFR Part 309 shall be covered under this fuel rating definition.
- (4) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines and also commonly used in marine and nonautomotive applications.
- (5) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.
- (6) "Aviation Turbine Fuel" means a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

- (7) ~~"Base Gasoline" means all components other than ethanol in a blend of gasoline and ethanol.~~
- (87) "Biodiesel" (Biodiesel Fuel Blend Stock) means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.
- (98) "Biodiesel Blend" means a fuel comprised of a blend of more than five percent by volume biodiesel fuel with petroleum-based diesel fuel, that may contain fuel additives designated BXX. In the abbreviation BXX, the XX represents the liquid volume percentage of biodiesel fuel in the blend.
- (9) ~~"Butanol" means butyl alcohol, the chemical compound C₄H₉OH, a colorless substance existing in four isomeric forms.~~
- (10) "CBOB" means Conventional Blendstock for Oxygenate Blending, gasoline blendstock which could become conventional gasoline-oxygenate blend solely upon the addition of an oxygenate.
- (40 11) "Cetane Number" means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
- (44 12) "Commissioner" means the Commissioner of the Tennessee Department of Agriculture or a departmental employee designated by the Commissioner to act as his representative for purposes of these rules.
- (13) "Compressed Natural Gas (CNG)" means natural gas which has been compressed and dispensed into fuel storage containers and is suitable for use as an engine fuel.
- (14) "Conventional-Fuel Vehicle" means a vehicle designed to operate on spark-ignition engine fuel that complies with ASTM D4814 standards.
- Note: This definition is for the purpose of these regulations. Diesel vehicles may operate on conventional compression-ignition engine fuel. Diesel fuel and diesel engines are outside the scope of this definition.
- (15) "Denatured Fuel Ethanol", means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau (TTB), www.ttb.gov. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels.
- (42 16) "Department" means the Tennessee Department of Agriculture.
- (43 17) ~~"Diesel Fuel" means refined oils commonly used in internal combustion engines where ignition occurs by pressure and not by electric spark, the classification of which shall be defined by the American Society for Testing and Materials; a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine that may contain fuel additives.~~
- (44 18) "E85 Fuel Ethanol Flex Fuel" means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 85 to 75 volume percent denatured fuel ethanol, restricted for use as fuel in ground vehicles equipped with ethanol flexible-fuel spark-ignition engines.

- (45 19) "Engine Fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine that meets the applicable product specification.
- (46 20) "EPA" means the United States Environmental Protection Agency.
- (47 21) "Ethanol" also known as denatured fuel ethanol and ethyl alcohol, means an ethanol blend component for use in gasoline-ethanol blends, Mid-Level Ethanol Blends and Ethanol Flex Fuel for use in spark-ignition internal combustion engines. The ethanol is rendered unfit for beverage use by the addition of denaturants under formulas approved by the Alcohol and Tobacco Tax and Trade Bureau (TTB), www.ttb.gov. ASTM D4806 describes the acceptable denaturants for denatured fuel ethanol to be blended into engine fuels. means ethyl alcohol, the chemical compound C_2H_5OH
- (22) "Flexible-Fuel Vehicle" means a vehicle designed to operate on either unleaded gasoline or ethanol flex fuel blends or mixtures or both. Flexible-Fuel Vehicles may also be designed to run on M85 Fuel Methanol.
- (23) "Fuel Additive" means a material added to a fuel in small amounts not to exceed 1.0 percent by volume to impart or enhance desirable properties or to suppress undesirable properties.
- (48 24) "Fuel Oil" means a refined oil middle distillates, heavy distillates, or residues of refining, or blends of these, suitable for use as a fuel for heating or power generation that may contain fuel additives, the classification of which shall be defined by ASTM D396.
- (49 25) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (20 26) "Gasoline-Oxygenate Blend" means a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent oxygen, or more than 0.15 mass percent oxygen if methanol is the oxygenate) of one or more oxygenates.
- (27) "Hydrogen Fuel" means a fuel composed of the molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.
- (28) "Internal Combustion Engine" means a device used to generate power by converting chemical energy bound in the fuel via spark-ignition or compression ignition engine combustion into mechanical work to power a vehicle or other device.
- (24 29) "Kerosene (or Kerosine)" means a refined oil intended for heating or illuminating use, the classification of which shall be defined by the American Society of Testing and Materials.
- (22 30) "Lead Substitute" means an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.
- (23 31) "Lead Substitute Engine Fuel" means, for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."
- (24 32) "Leaded" means, for labeling purposes, any gasoline or gasoline-oxygenate blend which contains more than 0.013 gram lead per liter (0.05 g lead per U.S. gal). NOTE: EPA

defines leaded fuel as one which contains more than 0.0013 gram phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

- (33) "Liquefied Natural Gas (LNG)" means natural gas that has been liquefied at -162 °C (-260 °F) and stored in insulated cryogenic tanks for use as an engine fuel.
- (25 34) "Liquefied Petroleum Gas (LPG)" means a mixture of normally gaseous hydrocarbons, predominantly propane, that has been liquefied by compression or cooling, or both to facilitate storage, transport, and handling for use as a motor fuel, ~~the classification of which shall be defined by the American Society of Testing and Materials.~~
- (26) ~~"Low Sulfur" means low sulfur diesel fuel that meets ASTM D 975 (e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D) standards. Diesel fuel containing higher amounts of sulfur for off-road use is defined by EPA regulations.~~
- (27 35) "Low Temperature Operability" means a condition which allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.
- (28 36) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.
- (29 37) ~~"M85 Fuel Methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent. means automotive spark-ignition engine fuel blends of methanol and hydrocarbons, for use in ground vehicles equipped with M85 flexible-fuel spark-ignition engines.~~
- (30 38) "Motor Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.
- (34 39) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.
- (32 40) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.
- (34 41) "Person" means an individual, partnership, corporation, company, firm, association, or other business entity.
- (33 42) "Racing Gasoline" means a specialty product similar in nature to automotive gasoline except that it is typically of lower volatility, has a narrower boiling range, and a higher antiknock index, and is generally free of significant amounts of oxygenates. It is designed for use in vehicles with high compression engines, generally for racing purposes.
- (43) "Refinery" means any facility, including but not limited to, a plant, tanker truck, or vessel where gasoline or diesel fuel is produced, including any facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.
- (35 44) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D-2699 Research Method engine test

- (36) ~~"Substantially Similar" means the EPA's "Substantially Similar" rule, Section 211 (f) (1) of the Clean Air Act [42 U.S.C. 7545 (f) (1)].~~
- (37 ~~45~~) "Thermal Stability" means the ability of a fuel to resist the thermal stress which is experienced by the fuel when exposed to high temperatures in a fuel delivery system. Such stress can lead to formation of insoluble gums or organic particulates. Insolubles (gums or organic particulates) can clog fuel filters and contribute to injector deposits.
- (38 ~~46~~) "Total Oxygenate" means the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Chapter.
- (39 ~~47~~) "Unleaded" in conjunction with "engine fuel" or "gasoline" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram phosphorus per liter (0.005 g phosphorus per U.S. gal).
- (40) ~~"Wholesale Purchaser Consumer" means any person who is an ultimate consumer of products covered under this regulation who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.~~

Authority: T.C.A. §47-18-1309.

0080-5-12-.02 STANDARD FUEL SPECIFICATIONS.

- (1) Gasoline and Gasoline-Oxygenate Blends. - (as set forth in this regulation) shall meet the following requirements:
- (a) The most recent version of ASTM D-4814, "Standard Specification for Automotive Spark Ignition Engine Fuel" except for the permissible offsets for ethanol blends as provided in section 0080-5-12-.02 (1)(b). Gasoline blended with ethanol at concentrations up to ten percent by volume shall be blended under any of the following three options:
1. ~~The base gasoline used in such blends meets the requirements of ASTM D 4814 and the ethanol meets the requirements of ASTM D 4806. The finished blend meets ASTM D 4814 with the following permissible exceptions;~~
 - (i) ~~The distillation minimum temperature at the 50 volume percent evaporated point shall not be less than 66 °C (150°F).~~
 - (ii) ~~The Minimum Test Temperature at which the Vapor/Liquid Ratio is equal to 20 shall be as follows for the applicable vapor lock protection class:~~
 - Class 1 shall be 51.5 °C (125 °F)
 - Class 2 shall be 49.0 °C (120 °F)
 - Class 3 shall be 45.0 °C (113 °F)
 - Class 4 shall be 41.5 °C (107 °F)
 - Class 5 shall be 37.0 °C (99 °F)

Class 6 shall be 35.0 °C (95 °F)

2. ~~The blend meets the requirements of ASTM D 4814.~~
 3. ~~The base fuel used in such blends meets all the requirements of ASTM D 4814 except distillation, and the blend meets the distillation requirements of ASTM D 4814.~~
- (b) Gasoline-Ethanol Blends – When gasoline is blended with ethanol, the ethanol shall meet the latest version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Fuel", and the final blend shall meet the latest version of ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel", with the following permissible exceptions. Blends of gasoline and ethanol shall meet the following vapor pressure requirements: The maximum vapor pressure shall not exceed the ASTM D4814 limits by more than : During the period between June 1 and September 15 of each calendar year, blends containing a minimum of 9 percent ethanol by volume and a maximum of 10 percent ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 p.s.i. All other blend concentrations shall meet the ASTM D 4814 vapor pressure limits.
1. 1.0 psi for blends containing 9 to 10 volume percent ethanol from June 1 through September 15, in accordance with 40 CFR Part 80.27(d);
 2. 1.0 psi for blends containing one or more volume percent ethanol for volatility Classes A, B, C and D from September 16 through May 31;
 3. 0.5 psi for blends containing one or more volume percent ethanol for volatility Class E from September 16 through May 31.
 4. The vapor pressure exemptions in subsections 0080-5-12-.02 (1)(b)1 – 3 will remain in effect until May 1, 2016 or until ASTM incorporates changes to or confirms the current limits to the vapor pressure maximums for ethanol blends, whichever occurs first.
- (c) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall be those permitted by the EPA under Section 211 of the Clean Air Act and applicable waivers. All conditions stipulated in the EPA waivers also apply. Gasoline oxygenate content specifications based on vehicle performance and operability that are stipulated within ASTM D4814 will govern when those limits are more restrictive than those established by the EPA for purposes of controlling emissions and the durability of emissions related equipment. Blends of gasoline and ethanol shall contain no more than 10 volume percent ethanol.
- (d) "Minimum Antiknock Index (AKI)" - the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation;
- (e) "Minimum Motor Octane Number" - the minimum motor octane number shall not be less than 82 for gasoline or gasoline-oxygenate blends with an AKI of 87 or greater;

- (f) "Minimum Lead Content to Be Termed (Leaded)" - gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal);
- (g) "Lead Substitute Gasoline" - gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).
1. "Documentation of Exhaust Valve Seat Protection" upon the request of the Commissioner, the lead substitute additive manufacturer shall provide documentation to the Commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g/gal) lead. ~~The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:~~
 2. The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:
 - (i) Test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act, or;
 - (ii) Until such a time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.
- (h) "Blending;" - Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.
- (2) Diesel Fuel shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils."
- (a) Diesel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25°C (77°F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply
- (ab) Premium Diesel Fuel - All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements:
1. Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.

2. Low Temperature Operability - A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D_4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
 3. Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C [302_°F]).
 4. Lubricity – A maximum wear scar diameter of 520 microns as determined by ASTM D_6079. If an enforcement jurisdiction's single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this part.
- (3) ~~Aviation Turbine Fuels shall meet the most recent version of ASTM D1655, "Standard Specification for Aviation Turbine Fuels."~~ the following standards, as applicable:
- (a) ASTM D1655, "Standard Specification for Aviation Turbine Fuels."
 - (b) ASTM D7223, "Standard Specification for Aviation Certification Turbine Fuel."
 - (c) ASTM D7566, "Standard Specification for Aviation Turbine Fuel Containing Synthesized Hydrocarbons."
 - (d) ASTM D6615, "Standard Specification for Jet B Wide-Cut Aviation Turbine Fuel"
- (4) ~~Aviation Gasoline shall meet the most recent version of ASTM D-910, "Standard Specification for Aviation Gasoline."~~ the following standards, as applicable:
- (a) ASTM D910, "Standard Specification for Aviation Gasoline."
 - (b) ASTM D6227, "Standard Specification for Grades UL 82 and UL87 Unleaded Aviation Gasoline."
 - (c) ASTM D7547, "Standard Specification for Unleaded Only Aviation Gasoline"
- (5) Fuel Oils shall meet the most recent version of ASTM D-396, "Standard Specification for Fuel Oils."
- (6) Kerosene (Kerosine) shall meet the most recent version of ASTM D-3699, "Standard Specification for Kerosine."
- (7) Ethanol intended for blending with gasoline shall meet the most recent version of ASTM D4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."
- (8) Liquefied Petroleum (LP) Gases Intended for Use as Motor Fuel shall meet ASTM D1835, "Standard Specification for Liquefied Petroleum (LP) Gases."
- (9) ~~E85 Fuel Ethanol shall meet the most recent version of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."~~ Ethanol Flex Fuel blends are covered by one of two ASTM standards based upon the ethanol concentration of the blend:

- (a) Ethanol Flex Fuel blends containing 51 to 83 volume percent ethanol shall meet the latest version of ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines"; and
 - (b) Ethanol Flex Fuel Blends containing 16 to 50 volume percent ethanol shall be blended, stored and conveyed for consumption in accordance with the recommendations and requirements included in the latest version of ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible-Fuel Vehicles with Automotive Spark-Ignition Engines" ASTM D4814 does not apply to this classification of fuel.
- (10) M85 Fuel Methanol shall meet the most recent version of ASTM D 5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark-Ignition Engines."
- (11) Racing Gasoline shall meet the following requirement:
- (a) "Minimum Antiknock Index (AKI)" the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.
 - (b) The minimum product specifications shall be those as declared by the manufacturer's product specifications. Upon the request of the Commissioner, each conveyor of racing gasoline shall provide the Department with a copy of the manufacturer's product specifications.
- (12) Biodiesel (Biodiesel Fuel Blend Stock) —~~All Biodiesel blend stock~~ intended for blending with diesel fuel shall meet the most recent version of ASTM D6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels." All biodiesel blend stock shall be at least 99% biodiesel (no more than 1% diesel fuel). Any blend stock less than 99% biodiesel shall not be used as a commercial blend stock for biodiesel blends without the permission of the Commissioner.
- ~~(13) Biodiesel Blends — Blends of biodiesel and diesel fuels shall meet the following requirements: the base diesel fuel shall meet the most current requirements of ASTM D 975, Standard Specification for Diesel Fuel Oils; the biodiesel blend stock shall meet the most current requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, with the following exception: Biodiesel may be blended with diesel fuel whose sulfur, lubricity, or aromatic levels are outside specification ASTM D 975, "Standard Specification for Diesel Fuel Oils", Grades 1-D, low sulfur 1-D, 2-D, or low sulfur 2-D, limits provided the finished mixture meets pertinent national and local specifications and requirements for these properties~~
- (13) Biodiesel Blends and Diesel Fuel Containing Biodiesel – All blends of biodiesel and diesel fuels shall be blended with biodiesel blend stock that meets the requirement of 0080-05-12-.02 (12), and also shall meet the following requirements:
- (a) Blends that contain less than or equal to 5 % by volume biodiesel must meet the latest version of ASTM D975, "Standard Specification for Diesel Fuel Oils" and shall be sold as diesel fuel. In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply.

- (b) Blends greater than 5 % by volume biodiesel and less than or equal to 20 % by volume biodiesel shall meet the most recent edition of ASTM D7467 "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)".; In addition, the fuel shall have a maximum haze rating of 2 per ASTM D4176 "Standard Test Method for Free Water and Particulate Contamination in Distillate Fuels (Visual Inspection Procedures)" at 25 °C (77 °F). This requirement will not apply to any bulk fuel storage tank whereby the product contained therein is being reconditioned and withheld from sale. At such time any reconditioned product is offered for sale, the haze rating standard stipulated in this section shall apply.
- (c) Biodiesel Conveyed at Public Retail Sale Points – Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20 % by volume.
- (14) Biodiesel Blends up to 5 Percent by Volume—Biodiesel blends up to 5% by volume shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils". At such time that an ASTM standard specification is developed for blends up to 5%, the ASTM standard shall prevail as rule.
- (15) Biodiesel Blends More Than Five Percent and Up to Twenty Percent by Volume— Biodiesel blends more than 5% and up to 20% by volume shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils", except that the maximum temperature of the 90 percent volume recovered distillation point shall be five degrees centigrade greater than that specified in Table 1 of ASTM D 975. At such time that an ASTM standard specification is developed for blends greater than 5% and up to 20%, the ASTM standard shall prevail as rule.
- (16) Low Temperature Operability of Biodiesel Blends— All biodiesel blends must meet the tenth percentile minimum ambient temperature values for low temperature operability as published in ASTM D 975 Appendix X.4. Low temperature operability may be qualified by either ASTM Standard Test Method D 4539 or ASTM Standard Test Method D 2500.
- (17) Biodiesel Conveyed at Public Retail Sale Points— Biodiesel conveyed at retail sale points that are available to the general consuming public shall not exceed 20% by volume.
- (14) Hydrogen Fuel for Fuel Cell Vehicles shall meet the most recent edition of SAE J2719 "Hydrogen Fuel Quality for Fuel Cell Vehicles". At such time that ASTM establishes a standard for Hydrogen fuel, the most recent edition of the ASTM standard specification(s) shall replace SAE J2699 as the Standard Specification for Hydrogen Fuel Quality.
- (15) Compressed Natural Gas (CNG) shall meet the most recent edition of SAE J1616, "Recommended Practice for Compressed Natural Gas Vehicle Fuel." At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule.
- (16) Liquefied Natural Gas (LNG) Vehicle Fuel shall meet the most recent edition of SAE J2699 "Liquefied Natural Gas (LNG) Vehicle Fuel. At such time that ASTM develops applicable standards for natural gas, those standards shall prevail as rule
- (17) Butanol for Blending with Gasoline shall meet the most recent edition of ASTM D7862, "Standard Specification for Butanol Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel."
- (18) Dimethyl Ether for Fuel Purposes shall meet the most recent edition of ASTM D7901 "Standard Specification for Dimethyl Ether for Fuel Purposes."

- (19) Fuel Additives applied to products included in these regulations must be used in accordance with the definition of a fuel additive as stated in section 0080-05-12-.01 Definitions.

Authority: T.C.A. § 47-18-1304 and § 47-18-1309.

0080-5-12-.03 CLASSIFICATION AND METHOD OF SALE OF PETROLEUM PRODUCTS.

(1) General Considerations

- (a) "Documentation," When gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol; E85 and E100 fuel ethanol; liquefied petroleum (LP) gases intended for use as a motor fuel; compressed natural gas; liquefied natural gas; biodiesel; diesel fuel; kerosene; aviation gasoline; aviation turbine fuels; racing gasoline; or, fuel oils products regulated by this rule are sold, product transfer documents such as an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a retail sale. This document must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating (fuel rating), as applicable, the manganese or MMT content when applicable, and the oxygenate type and content when applicable (if applicable as determined by 0080-5-12-.03 (2)(h)-), the name and address of the seller and buyer, and the date and time of the sale. Documentation must be retained at the retail establishment for a period not less than 30 days.
- (b) "Retail Dispenser Labeling," - all retail gasoline and gasoline oxygenate blend dispensing devices must identify be labeled or otherwise decalcd in such a manner that the type of product being offered is clear and conspicuous to the potential customer and must be labeled with conspicuously the type of product, the particular grade of the product, and the applicable automotive fuel rating. All retail dispensing devices of other products covered by this regulation must be labeled with the name of the product (e.g., diesel), the particular grade of the product (with exceptions noted within these rules), and the automotive fuel rating (fuel rating), as applicable.
- (c) "Grade Name," - the sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or grade indicated in the grade name is consistent with the value and meets the requirements of 0080-5-12-.02, Standard Fuel Specifications.
- (d) Each retail dispenser must be identified by a number, other than or in addition to a serial number, permanently affixed to the dispenser.
- (e) Dispenser Nozzle Grip Guard Colors - all retail ethanol flex-fuel dispensers shall be equipped with yellow grip guards; no other product nozzles shall be equipped with yellow grip guards. All dispensers must be compliant with this requirement by May 1, 2016.
- (f) Nozzle Requirements for Fuel Dispensers - each retail dispensing device from which fuel products are sold shall be equipped with a nozzle spout having with a diameter that conforms to the latest version of SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark-Ignition and Compression Ignition Engines." All dispensers must be compliant with this requirement by May 1, 2016.

- (2) Automotive Gasoline, and Automotive Gasoline-Oxygenate Blends, and Racing Gasoline
- (a) "Posting of Antiknock Index Required," - all dispensing devices of automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (b) "When the Term (Leaded) May be Used," - the term "leaded" shall only be used when the fuel meets specification requirements of 0080-5-12-.02 (ef).
- (c) "Use of Lead Substitute Must Be Disclosed," - each dispensing device from which gasoline or gasoline oxygenate blend containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height and 1.5 millimeter (1/16 in) stroke (width of type) and the color of the lettering shall be in definite contrast to the background color to which it is applied.
- ~~(d) "Nozzle Requirements for Leaded Fuel," each dispensing device from which gasoline or gasoline oxygenate blends that contains lead in amounts sufficient to be considered "leaded" gasoline, or lead substitute engine fuel, is sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 millimeters (0.930 in).~~
- (ed) "Prohibition of Gasoline and Gasoline Oxygenate Grade Terms.":
1. It is prohibited to use the following terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the following minimum antiknock index requirement:
 - (i). Premium, Super, Supreme, High Test, Premier, Ultra, Ultimate must be a minimum of 91 AKI;
 - (ii). Midgrade, Plus, Extra, or other approved terms, must be a minimum of 89 AKI;
 - (iii). Regular Leaded, must be a minimum of 89 AKI;
 - (iv). Regular, Unleaded must be a minimum of 87 AKI.
 - (v). Unleaded Subgrade – CBOB AKI as applicable pursuant to 16 C.F.R. Part 306;
 - (vi). Premium Subgrade – CBOB AKI as applicable pursuant to 16 C.F.R. Part 306;
 2. The use of any other term not listed above in (2)(ed) to describe a grade of gasoline must be approved by the Commissioner.
 3. Additional Unleaded Subgrade – CBOB Requirements: The grade terms "Unleaded Subgrade – CBOB", and "Premium Subgrade CBOB" are grades that are approved for conveying from supplier terminal level to wholesalers. These fuel grades are not approved as grade terms and fuel ratings for retail sales.
 4. In addition to the requirements of 0080-05-12-.03 (2)(d) 1.(v) – (vi), each of the subgrades/CBOBs must declare the minimum AKI that the fuel will

provide after the addition of a specified volume ethanol. Other oxygenates and octane extender declarations may supplement the ethanol AKI declaration. The requirements of 0080-05-12-.03 (2)(d) 1.(v) – (vi) are applicable when conveying from the supplier terminal to wholesalers or from wholesaler to another wholesaler. Such reporting is not subject to enforcement under these rules for conveyances from pipelines to supplier terminals.

5. When fuels containing greater than 10 % by volume ethanol for use in conventional-fuel vehicles are offered for sale, the grade terms listed above or otherwise approved by the Commissioner must be followed by the term "EXX". For example, "Regular E15"; "Plus E15"; "Premium E15".
 6. When gasoline or gasoline-oxygenate blends are conveyed through a fuel dispenser, the grade terms must be posted accurately on both the fuel dispenser and street pricing signs, where applicable. This includes the grade extension of EXX where applicable.
 7. When gasoline or gasoline-oxygenate blends are conveyed through wholesale bulk metering systems, each grade and associated automotive fuel rating at each fuel loading facility shall be posted or otherwise accurately certified to potential customers and to the Commissioner when performing inspections and sampling.
- (fe) "Method of Retail Sale-Type of Oxygenate Must be Disclosed," - all automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold, at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE." The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers" or alternatively post the phrase "contains MTBE or other ethers." In addition, gasoline methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). Racing gasoline being kept, offered, or exposed for sale, or sold at retail containing any amount of oxygenates shall be identified as "with" or "containing" (or similar wording) the particular oxygenate or oxygenates in the engine fuel, along with the volume percent of the oxygenate. Where mixtures of only ethers are present, the retailer may post the volume percent of the predominant oxygenate followed by the phrase "or other ethers".
- (gf) "Documentation for Dispenser Labeling Purposes," - the retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation:
1. Information that complies with 40 CFR § 80.1503 when the fuel contains ethanol.
 2. For fuels that do not contain ethanol, information that complies with 40 CFR § 80.1503 and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield

an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers."

3. ~~In addition, any Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.~~
 4. For Racing Gasoline, the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the concentration of the oxygenate or oxygenates present in the fuel to allow for accurate dispenser labeling.
- (g) EPA Labeling Requirements also Apply – Retailers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10 % by volume and up to 15 % by volume under CFR § 80.1501.
- (h) Method of Retail Sale: Posting of Manganese Additives Must be Disclosed - all gasoline or gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail that contain any Manganese or any compound containing Manganese, including, without limitation, MMT, shall be labeled as follows:
1. WARNING: Read Label Before Dispensing Fuel. This Fuel Contains Manganese, Manganese Compound, or MMT. Recommend Vehicle Operator Consult Owner's Manual Before Using This Fuel.
 2. This label shall:
 - i. Be legible and conspicuous, placed on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position.
 - ii. Consist of black lettering on a white background.
 - iii. Be written in font at least 8 millimeters (5/16 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
 - iv. Be affixed to the applicable pump or other device for dispensing gasoline or gasoline-oxygenate blends (1) at the time gasoline or gasoline-oxygenate blends containing manganese or any compound containing manganese, including, without limitation, MMT, is loaded into or otherwise placed in a storage tank from which the dispenser or other device for dispensing gasoline or automotive gasoline-oxygenate blends draws its supply of fuel; (2) before the dispenser or other device for dispensing motor vehicle fuel may be used to dispense such fuel; (3) for 6 months immediately after the time the intentional addition of manganese or any compound containing manganese, including, without limitation, MMT is discontinued.

3. As used in these rules, MMT means methylcyclopentadienyl manganese tricarbonyl.

(i) Documentation for Dispenser Labeling Purposes - Notification to Fuel Distributors and Retailers

1. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.

2. The retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation a declaration of Manganese or any compound containing Manganese, including, without limitation, MMT.

3. Each fuel supplier that offers product containing manganese or any compound containing manganese, including, without limitation, MMT, must notify all customers that are approved to receive product documented as destination Tennessee that the product will no longer contain manganese or any compound containing manganese, including, without limitation, MMT at least thirty days in advance of providing such fuel for distribution.

(3) Diesel Fuel

(a) "Labeling of Grade Requirements," - Diesel Fuel shall be identified by grades No. 1-D, ~~No. 1-D (low-sulfur)~~, No. 2-D, ~~No. 2-D (low-sulfur)~~, or No. 4-D. For grades other than No. 2-D Low-Sulfur, each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed ~~except the words "low sulfur" are not required.~~

(b) "Location of Label," - these labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeters (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

(c) All conveyors of diesel fuel shall also comply with the US EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(4) Aviation Turbine Fuel

(a) "How to Identify Aviation Turbine Fuels," - aviation turbine fuels shall be identified by ~~Jet A, Jet A-1, or Jet B~~ the grade terms contained within the applicable ASTM Standard Specifications.

(b) "Labeling of Grade Required," - each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled conspicuously as to identify the product being sold as classified above.

(5) Aviation Gasoline

- (a) "How to Identify Aviation Gasoline," - aviation gasoline shall be identified by ~~Grade 80, Grade 100, or Grade 100L~~ the grade terms contained within the applicable ASTM Standard Specifications.
- (b) "Labeling of Grade Required," - each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled conspicuously as to identify the product being sold as classified above.
- (6) Fuel Oils
- (a) "How to Identify Fuel Oils," - fuel oil shall be identified by the term Fuel Oil along with the grades of No. 1 S500, No. 1 S5000, No. 2 S500, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.
- (b) "Labeling of Grade Required," each retail dispenser or delivery truck dispensing fuel oil shall be labeled conspicuously as to identify the product being sold as classified above. In addition, retail Fuel Oil dispensers shall display the following legend:
- "Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K Kerosene." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) strokes; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.
- (7) Kerosene (Kerosine)
- (a) "How to Identify Kerosene," - kerosene shall be identified by the grades No. 1-K or No. 2-K.
- (b) "Labeling Requirements," - each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K. In addition, No. 2-K dispensers shall display the following legend:
1. "Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K K." The lettering of this legend shall not be less than 12.7 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) strokes; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.
- (8) Fuel-Ethanol Flex Fuel
- (a) "How to Identify Fuel-Ethanol Flex Fuel," - fuel-ethanol flex fuel shall be identified by the term Ethanol Flex-Fuel or EXX Ethanol Flex Fuel, capital letter E followed by the numerical value volume percentage. (Example: E85)
- (b) "Retail Dispenser Labeling," - each retail dispenser of fuel-ethanol flex fuel shall be labeled under the following alternatives: with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol)
1. Ethanol Flex Fuel blends with an ethanol concentration no less than 51 and no greater than 83 percent by volume shall be labeled "Ethanol Flex Fuel, minimum 51% ethanol" or "EXX Ethanol Flex Fuel", where XX is

the target ethanol concentration in volume percent and the actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume;

2. Ethanol Flex Fuel blends with an ethanol concentration less than or equal to 50 volume percent shall be labeled "EXX Flex Ethanol Fuel," where the XX is the target ethanol concentration in volume percent. The actual ethanol concentration of the blend shall be XX volume percent plus or minus 5 percent by volume.;

3. A label shall be posted which states "For Use in Flexible Fuel Vehicles (FFV) Only." This information shall be clearly and conspicuously posed on the upper 50 % of the dispenser front panel in a type at least 12.7 millimeters (½ in) in height, 1.5 millimeter (1/16 in) stroke (width of type). The label shall also state, "CHECK OWNER'S MANUAL", in a type at least 6.5 millimeters (¼ in) in height and 1 millimeter (3/64 in) stroke. The color of the wording shall be in definite contrast to the background color to which it is applied.

~~(c) "Additional Labeling Requirements," fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.~~

(9) Fuel Methanol

(a) ~~"How Fuel Methanol is to be Identified,"~~ fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (Example: M85)

(b) ~~"Retail Dispenser Labeling,"~~ each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol." (Example: M85 Methanol)

(c) ~~"Additional Labeling Requirements,"~~ fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306. Additionally, a label shall be posted which states "Check Owner's Manual - For Use in Methanol Variable Fuel Vehicles (VFV) Only". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in) in height, 1.5 millimeters (1/16 in) stroke (width of type).

(10) Liquefied Petroleum (LP) Gas

(a) ~~"How LPG is to Be Identified Liquefied Petroleum Gas,"~~ liquefied petroleum gases intended for use as a motor fuel shall be identified by grades Commercial Propane or Special-Duty Propane (HD5).

(b) ~~"Retail Dispenser Labeling,"~~ each retail dispenser of liquefied petroleum gases intended for use as a motor fuel shall be labeled as "Commercial Propane" or "Special-Duty Propane (HD5)."

(c) ~~"Additional Labeling Requirements,"~~ liquefied Petroleum Gas intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(11) Racing Gasoline

- (a) ~~"Posting of Antiknock Index Required" all dispensing devices of racing gasoline shall post the Antiknock Index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended~~ How to Identify Racing Gasoline - racing gasoline shall be identified as Racing Gasoline.
- (b) ~~"Method of Retail Sale-Type of Oxygenate Must be Disclosed" all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 mass percent oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height and 1.5 mm (1/6") stroke (width of type)~~ Posting of Antiknock Index Required - all dispensing devices of racing gasoline shall post the Antiknock Index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (c) ~~"Documentation for Dispenser Labeling Purposes" the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel. This documentation is for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygenate content of the engine fuel before blending~~ Method of Retail Sale-Type of Oxygenate Must be Disclosed - all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 percent by mass oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 millimeters (1/2 in.) in height and 1.5 millimetre (1/6") stroke (width of type).
- (d) ~~Documentation for Dispenser Labeling Purposes - the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel.~~

(12) Biodiesel and Biodiesel Blends

- (a) ~~Identification of Product~~ How to Identify Biodiesel – Biodiesel shall be identified by the term "Biodiesel" with the designation "B100" or "B99", and Biodiesel blends containing more than 5% percent by volume shall be identified by the term "Biodiesel Blend".
- (b) Labeling of Dispensers Containing more than Five Percent (5 %) and Up to Twenty Percent (20 %) Biodiesel –
1. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20 % by volume shall be labeled identified with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend."

(Examples: B10 Biodiesel Blend; B20 Biodiesel Blend), or the phrase "Biodiesel Blend between 5% and 20%" or similar words.)

2. Labeling of Grade Required

(i) Biodiesel shall be identified by the grade terms specified in ASTM D6751

(ii) Biodiesel Blends shall be identified by the grade terms contained within ASTM D7467. Additionally, the diesel grade component as contained within ASTM D975 for grades other than No. 2-D shall also be identified except the sulfur extension designations are not required (sulfur declarations are required under 0080-5-12-.03 (12)(c)).

3. Each dispenser of biodiesel blends containing more than 5 % and up to and including 20 % by volume biodiesel shall display a label that reads "CHECK OWNER'S MANUAL". This label shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at 6.5 millimeters (1/4 in) in height and 1 millimeter (3/64 in) stroke.

(c) All conveyors of biodiesel blends fuel shall also comply with the US EPA grade disclosure requirements for sulfur under 40 CFR § 80.572.

(d) Automotive Fuel Rating – Biodiesel and biodiesel blends shall be certified and labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(e e) Documentation of Biodiesel Content on Product Transfer Documents for Dispenser Labeling Purposes – When biodiesel blends contain more than 5 % by volume biodiesel, (The retailer shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on product transfer documents such as an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; It is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.

(13) Compressed Natural Gas

(a) For the purposes of this rule, compressed natural gas shall be identified by the term "Compressed Natural Gas" or "CNG."

(b) Retail Dispenser Labeling

1. Each retail dispenser of CNG shall be labeled as "Compressed Natural Gas".

2. Each retail dispenser of CNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(14) Liquefied Natural Gas

(a) For the purposes of this rule, compressed natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG."

(b) Retail Dispenser Labeling

1. Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas".
2. Each retail dispenser of LNG shall be labeled with its fuel rating in accordance with 16 CFR Part 309.

(15) Dimethyl Ether

- (a) How to Identify Dimethyl Ether – dimethyl ether intended for use as a motor fuel in engines specifically designed or modified for DME and for blending with liquefied petroleum gas (LPG) shall be identified Dimethyl Ether (DME).
- (b) Retail Dispenser Labeling - each retail dispenser of DME intended for use as a motor fuel shall be labeled as "Dimethyl Ether" or "DME"
- (c) Additional Labeling Requirements – Dimethyl Ether intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

Authority: T.C.A. §47-18-1304 and § 47-18-1309.

0080-5-12-.04 WATER IN RETAIL TANKS AND DISPENSER FILTERS.

- (1) "Water in Retail Storage Tanks containing Gasoline-Alcohol Blends, Biodiesel, Biodiesel Blends, Ethanol Flex Fuel, Aviation Gas, and Aviation Turbine Fuel," - no water phase greater than 6 millimeters (1/4 in) as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, ethanol-flex fuel, aviation gasoline, and aviation turbine fuel.
- (2) "Water in Retail Storage Tanks Containing Gasoline, Diesel, and Other Fuels," - water shall not exceed 50 38 millimeters (2 1.5 in) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends, fuel oils, and kerosene sold at retail.

(3) -Dispenser Filters

- (a) All gasoline, gasoline-oxygenate blends, Ethanol Flex Fuel, and M85 methanol dispensers shall have a 10 micron or smaller nominal pore-sized filter. All dispensers must be compliant with this requirement by July 1, 2015
- (b) All kerosene, diesel, biodiesel, and biodiesel blend dispensers shall have a 30 micron or smaller nominal pore-sized filter.
- (c) Fuel delivery of aviation turbine fuel and aviation gasoline into aircraft shall be filtered through a fuel filter/separator conforming to API 1581, "Specification and Qualification Procedures for Aviation Jet Fuel Filter/Separators" and ATA Specification 103 "Standard for Jet Fuel Quality Control at Airports", as applicable.
- (d) All Aviation Gasoline dispensing systems shall be equipped as follows:
 1. At inlets to storage and on fueller loading racks (and hydrant delivery lines), a 5 micron (nominal) or finer Microfilter meeting EI 1590, or a filter water separator.

2. Where receipts are by gravity into underground tankage, a 100 micron mesh strainer.

Authority: T.C.A. §47-18-1309.

0080-5-12-.05 RETAIL PRODUCT STORAGE IDENTIFICATION.

- (1) "Fill Connection Labeling," - the fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained by means of :
 - (a) A permanently attached tag or label and;
 - (b) American Petroleum Institute color codes as specified and published in "API Recommended Practice 1637".
- (2) "Volume of Product Information," - each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the inspector upon request.

Authority: T.C.A. §47-18-1309.

0080-5-12-.06 CONDEMNED PRODUCT.

- (1) "Stop Sale Order," - a stop sale order may be issued as a Class One stop sale order or a Class Two stop sale order. When a stop sale order is placed on a terminal or bulk storage plant, the terminal or bulk storage plant operators shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). A list of all parties contacted by the supplier must be provided to the Commissioner. A release from a stop sale order will be awarded only after final disposition has been agreed upon by the Commissioner. Confirmation of disposition of products shall be made available in writing to the Commissioner.

Authority: T.C.A. §47-18-1309.

0080-5-12-.07 REPEALED.

Authority: T.C.A. §47-18-1309.

0080-5-12-.08 TEST METHODS, AND REPRODUCIBILITY LIMITS, AND CONFORMANCE TO SPECIFICATIONS.

- (1) ~~ASTM Standard~~ The test methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes. When no ASTM methods exist, accepted industry test methods specified in rule shall be used to determine compliance.
- (2) Premium Diesel - The following test methods shall be used to determine compliance with the applicable premium diesel parameters:

- (a) Lubricity - ASTM D6079;
 - (b) Cetane Number - ASTM D613;
 - (c) Low Temperature Operability - ASTM D4539 or ASTM D2500 (according to marketing claim);
 - (d) Thermal Stability – ASTM D6468 (180 minutes, 150 °C [302 °F]);
- (3) ~~Biodiesel Blends – The test method for determining the percent biodiesel in a blend of biodiesel and diesel fuel shall be EN 14078 “Liquid petroleum products – Determination of fatty methyl esters (FAME) in middle distillates – Infrared spectroscopy method.” At such time that ASTM develops a comparable standard test method, the ASTM method shall become the standard method for purposes of this rule.~~
- (4) 3 Reproducibility Limits Conformance to Specifications:
- (a) “Conformance to Specifications,” - The most recent version of ASTM D3244 “Standard Practice for Utilization of Test Data to Determine Conformance with Specifications” shall be used in determining the compliance of a test value to the specification limits except that no allowance shall be made for the precision of test methods for aviation gasoline and aviation turbine fuels or other product specifications whereby the limit has been determined to be a critical specification limit.
 - (a) b “AKI Limits,” - when determining the antiknock index (AKI) acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be routinely acknowledged when determining conformance to the specification using ASTM D3244 for enforcement purposes. However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.
 - (b) “Tests Other Than AKI,” - the reproducibility limits of the ASTM or other accepted standard test method used for each test performed shall be acknowledged for determining conformance to the specification using ASTM D3244 for enforcement purposes, except as indicated in 0080-5-12-.08 (3) 2(a) and in 0080-5-12-.02 (2)(a) b4. However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.

Authority: T.C.A. § 47-18-1304 and § 47-18-1309.

0080-5-12-.09 SAMPLING OF PETROLEUM PRODUCTS.

- (1) ~~Samples of petroleum products collected for testing shall be pumped, pulled, drawn, or otherwise procured in accordance with the most recent version of any of the following standard procedures:~~
- (1)(a) ASTM D4057, “Standard Practice for Manual Sampling of Petroleum and Petroleum Products;”
 - (2)(b) 40 CFR Part 80, Appendix D or subsequent US EPA sampling instructions;

(3)(e) ASTM D5842, "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement;"

(4)(d) NCWM Publication 21, "Petroleum Products Sampling Procedures and Safety Manual."

Authority: T.C.A. §§47-18-1309.

0080-5-12-.10 DISPOSITION OF SAMPLE RETAINS.

(1) — All unused portions of samples remaining after testing shall be disposed of either by use in official state vehicles or through proper waste-disposal procedures. If the unused portions of samples are used in official state vehicles, the state or contract laboratory shall be responsible for storing and dispensing product to authorized vehicles. A log of all product transfers shall be maintained by the state or contract laboratory.

Authority: T.C.A. §§47-18-1309.

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Dentistry

DIVISION: N/A

SUBJECT: General Rules of the Tennessee Board of Dentistry

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 63-5-101 et. seq.

EFFECTIVE DATES: December 29, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT:

Rule 0460-01-.05: The rule amendments will require a dentist, dental hygienist and dental assistant when applying for renewal, licensure or registration to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-02-.01: The rule amendments will require a dentist, dental hygienist and dental assistant when applying for renewal, licensure or registration to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-02-.02: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-02-.03: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-02-.06: The rule amendments will require an applicant for specialty certification to

submit verification of successful completion of specialty training as provided in the section or certification as a specialist by the American Board of the particular specialty for which the application is made. The rule amendment will require an applicant who is certified as a specialist in another state to have that state's licensing board send proof to the Board Administrative Office which indicates the applicant is in good standing. The rule amendments will also specify the requirements necessary for each specialty certification.

Rule 0460-02-07: The rule amendments will require a dentist using anti-anxiety premedication to employ personnel who are certified in CPR through the completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course. Members of the operating team must also be certified in CPR through the completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-03-01: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-03-02: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-03-03: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-03-06: The rule amendments will require a licensed dental hygienist who has successfully completed a comparable dental hygiene training program on nitrous oxide administration and monitoring in another state, to apply directly to the Board for certification.

Rule 0460-03-06: The rule amendments will require a licensed dental hygienist who has successfully completed a comparable dental hygiene training

program on nitrous oxide administration and monitoring in another state, to apply directly to the Board for certification.

Rule 0460-03-10: The rule amendments will require a licensed dental hygienist who has successfully completed a comparable dental hygiene training program on prosthetic or restorative functions in another state, to apply directly to the Board for certification.

Rule 0460-03-12: The rule amendments will require a licensed dental hygienist who has successfully completed a comparable dental hygiene training program on administration of local anesthesia in another state, to apply directly to the Board for certification.

Rule 0460-04-02: The rule amendments will require an applicant to indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-04-04: The rule amendments will require an applicant, after successful completion of a coronal polishing course, to apply forty-five (45) days prior to the examination and indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-04-08: The rule amendments will allow certain duties to be delegable or assignable to the dental assistant by the employer dentist.

Rule 0460-04-10: The rule amendments will require registered dental assistants who have successfully completed a comparable training program on prosthetic or restorative functions in another state, to apply directly to the Board for certification and indicate current training in CPR through completion of a BLS Healthcare Provider, CPR/AED for the Professional Rescuer or equivalent course.

Rule 0460-04-11: The rule amendments will require registered dental assistants who have successfully completed a comparable training program on dental radiology in another state, to apply directly to the Board for certification and indicate current training in CPR through completion of a BLS Healthcare

Provider, CPR/AED for the Professional Rescuer or equivalent course. Assistants who passed the radiology portion of the certified dental assistant examination given by the Dental Assisting National Boards, Inc. or hold a current certification from DANB as a certified dental assistant are eligible to apply directly to the board.

Rule 0460-05-02: The rule amendments will require that a certification course must be taught at a school of dentistry or dental hygiene and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment and curriculum. The employer dentist(s) must submit on a form, provided by the board, proof of successful completion of the injections required by this rule.

Rule 0460-05-03: The rule amendments will require that a certification course must be taught at a school of dentistry or dental hygiene and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment and curriculum. The employer dentist(s) must submit on a form, provided by the board, proof of successful completion of the injections required by this rule.

Rule 0460-05-03: The rule amendments will require that certification courses for sealant application have a procedure in place to ensure eligibility of applicants is verified prior to the applicant attending the course; owner and/or director make application for approval to operate that course by forms provided by the Board and received by the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting for the Board to review; maintain compliance with all minimum standards for admissions, facilities, instructors, equipment and curriculum; be subject to on-site inspections; notify the Board of any changes made in the operation of the course; certificates of approval shall be issued for one (1) year and shall expire on December 31st of any given year; submit at least thirty (30) days prior to the commencement of the course, names of the Tennessee dentist(s) who will be teaching, names of all instructors, the date of the course and location; the certification course is to be taught by a course director and one (1) or more Tennessee licensed dentist(s) and/or CDA/EFDA or RDH/EFDA auxiliaries who are

employed at an accredited school of dentistry. The course director must be a licensed dentist who is a faculty member of an accredited school of dentistry; within thirty (30) days after completion of the course, the director/instructor will complete a form provided by the Board, for each student to attest to the student's successful completion of the course; upon completion of the course, students shall be evaluated by written examination and the passing grade shall be seventy percent (70%).

Public Hearing Comments

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

PUBLIC HEARING COMMENTS TENNESSEE BOARD OF DENTISTRY

September 19, 2013

The rulemaking hearing for the Tennessee Board of Dentistry was held on September 19, 2013 in the Department of Health Conference center's Poplar Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee.

Written comments were received from Katherine Landsberg representing The Dental Assisting National Board, as well as verbal comments from Dr. James Hight, representing the Tennessee Dental Association.

1. Dr. James Hight had requests for revisions as listed below:
 - a. Rule 0460-05-.03(5)(c)(2): TDA requested that the current wording requiring that a Restorative Functions course be taught at an educational institution defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry remain in the rule. The Board approved this suggestion.
 - b. Rule 0460-05-.03(6)(c)(2): TDA requested that the current wording requiring that a Prosthetic Functions course be taught at an educational institution defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry remain in the rule. The Board approved this suggestion.

2. Katherine Landsberg submitted written comments and had requests for revisions as listed below:
 - a. Rule 0460-04-.04: Recommended the board only use DANB's national exam. The Board did not approve this suggestion as it felt it would be limiting to applicants.
 - b. Rule 0460-04-.10: Recommended the board only use DANB's national exam. The Board did not approve this suggestion as it felt it would be limiting to applicants.
 - c. Rule 0460-04-.11: DANB is fully supportive of this amendment.
 - d. Rule 0460-05-.03: Recommended the board only use DANB's national exam. The Board did not approve this suggestion as it felt it would be limiting to applicants.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-228(a), "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected financial impact on local governments."

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Act Analysis of Impact on Small Businesses

- (1) The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.
- (2) The language of the proposed rule amendments is clear, concise, and lacks ambiguity.
- (3) The proposed rule amendments do not institute new compliance or reporting requirements for small businesses.
- (4) The rule amendments do not establish schedules or deadlines for compliance and/or reporting requirements for small businesses.
- (5) The rule amendments clarify existing requirements and do not institute new compliance or reporting requirements for small businesses.
- (6) The rule amendments do not establish new performance standards for small businesses and do not establish design or operational standards.
- (7) The proposed rule amendments do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

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

Rulemaking hearing date: September 19, 2013

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

The proposed rule amendments affect licensed dentists, dental hygienists and dental assistants. The proposed rules only clarify existing requirements and, as such, there are no additional costs or direct benefit to any small businesses.

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

The proposed rules only clarify existing requirements and, as such, do not require reporting, recordkeeping or other administrative costs in order to comply with the proposed rule.

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

The proposed rule amendments only affect licensed dentists, dental hygienists and dental assistants. These rules do not impact small businesses or consumers.

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

The Board of Dentistry does not believe there are less burdensome alternatives to the proposed rule amendments, as rules are designed to protect the health, safety and welfare of dental patients of the state of Tennessee. The proposed rule is not a substantive change but a clarification of the current rule.

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

Federal: The Board of Dentistry is not aware of any federal entity that regulates the practice of Dentistry.

State: After reviewing the rules for other states in the southeastern region of the United States, it has been determined that other states either have rules that are consistent with the proposed rule amendments or do not address the specific topics covered by the proposed rule amendments.

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

An exemption of small businesses is not applicable as the proposed rules only clarify existing requirements and, as such, do not impact small businesses.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected financial impact on local governments."

These rules are not projected to have any financial impact on local governments.

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For Department of State Use Only

Sequence Number: 09-32-14
Rule ID(s): 5806
File Date: 09-30-14
Effective Date: 12-29-14

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Board of Dentistry
Division:	
Contact Person:	Jennifer Putnam, Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37234
Phone:	(615) 741-1611
Email:	

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
0460-01	General Rules
Rule Number	Rule Title
0460-01-.05	Continuing Education and C.P.R.

Chapter Number	Chapter Title
0460-02	Rules Governing the Practice of Dentistry
Rule Number	Rule Title
0460-02-.01	Licensure Process-By Exam and by Criteria (Reciprocity)
0460-02-.02	Dual Degree Licensure Process
0460-02-.03	Limited and Educational Limited Licensure Process
0460-02-.06	Specialty Certification
0460-02-.07	Anesthesia and Sedation

Chapter Number	Chapter Title
0460-03	Rules Governing the Practice of Dental Hygienists
Rule Number	Rule Title
0460-03-.01	Licensure Process
0460-03-.02	Criteria Approval Licensure Process (Reciprocity)
0460-03-.03	Educational Licensure Process
0460-03-.06	Nitrous Oxide Certification
0460-03-.10	Restorative and Prosthetic Certifications
0460-03-.12	Administration of Local Anesthesia Certification

Chapter Number	Chapter Title
0460-04	Rules Governing the Practice of Dental Assistants
Rule Number	Rule Title
0460-04-.02	Registration Process
0460-04-.08	Scope of Practice
0460-04-.10	Restorative and Prosthetic Certifications
0460-04-.11	Dental Radiology Certification

Chapter Number	Chapter Title
0460-05	General Rules Governing Schools, Programs and Courses for Dentists, Dental Hygienists, and Registered Dental Assistants
Rule Number	Rule Title
0460-05-.02	Schools, Programs and Courses for the Dental Hygienist
0460-05-.03	Schools, Programs and Courses for the Registered Dental Assistant

(Rule 0460-01-.04, continued)

- (a) Applicants who by virtue of any criteria in the area of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates a potential risk to the public health, safety and welfare may, pursuant to T.C.A. §63-5-111(a)(1), be required to present themselves to the Board or selected member(s) of the Board for oral examination before final approval may be granted. If sufficient cause, as determined by the full Board, exists an applicant may be required, pursuant to T.C.A. §63-5-124(b), to submit to a mental and/or physical examination.
 - (b) The examinations which may be required by paragraph (6)(a) of this rule are considered part of the examinations as required prior to issuance of the authorization applied for pursuant to T.C.A. §63-5-111(a)(1).
 - (c) The issuance of the authorization applied for may be withheld or restricted for violation of the provisions of T.C.A. §63-5-124(a) and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.
- (7) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 0460-01-.04 (4) (b).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Repeal filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed August 4, 2009; effective November 2, 2009.

0460-01-.05 CONTINUING EDUCATION AND C.P.R.

- (1) Continuing Education - Hours Required
 - (a) Beginning January 1, 2003, each licensed dentist must successfully complete forty (40) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the forty (40) hour requirement shall pertain to chemical dependency education. Dentists who hold limited or comprehensive conscious sedation or deep sedation/general anesthesia permits must also obtain a minimum of four (4) hours of continuing education in the subject of anesthesia and/or sedation as required by rule 0460-02-.07(8)(c) as part of the required forty (40) hours of continuing education for dental licensure.
 - 1. Example – To renew a license that expires in 2008, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2005 to December 31, 2006.
 - 2. Example – To renew a license that expires in 2009, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2007 to December 31, 2008.

(Rule 0460-01-.05, continued)

3. Example – To renew a license that expires in 2010, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2007 to December 31, 2008.
- (b) Beginning January 3, 2003, each licensed dental hygienist must successfully complete thirty (30) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the thirty (30) hour requirement shall pertain to chemical dependency education.
1. Example – To renew a license that expires in 2008, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2005 to December 31, 2006.
 2. Example – To renew a license that expires in 2009, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2007 to December 31, 2008.
 3. Example – To renew a license that expires in 2010, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2007 to December 31, 2008.
- (c) Beginning January 3, 2003, each registered dental assistant must successfully complete twenty-four (24) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the registration renewal year. At least two (2) hours of the twenty-four (24) hour requirement shall pertain to chemical dependency education.
1. Example – To renew a registration that expires in 2008, a dental assistant will attest on the renewal application that he/she completed twenty-four (24) hours of continuing education from January 1, 2005 to December 31, 2006.
 2. Example – To renew a registration that expires in 2009, a dental assistant will attest on the renewal application that he/she completed twenty-four (24) hours of continuing education from January 1, 2007 to December 31, 2008.
 3. Example – To renew a registration that expires in 2010, a dental assistant will attest on the renewal application that he/she completed twenty-four (24) hours of continuing education from January 1, 2007 to December 31, 2008.
- (d) New licensees and new registrants are exempt from the provisions of subparagraphs (1) (a), (1) (b), and (1) (c) during their initial two (2) calendar year (January 1 - December 31) cycle, starting with an odd-numbered year if it is the year of initial licensure or registration, or starting with the odd-numbered year if it precedes an even-numbered initial licensure or registration year.
1. Example – An individual whose new license or registration was granted in 2008 is exempt from the continuing education requirements for the period beginning January 1, 2007 and ending December 31, 2008.
 2. Example – An individual whose new license or registration was granted in 2009 is exempt from the continuing education requirements for the period beginning January 1, 2009 and ending December 31, 2010.

(Rule 0460-01-.05, continued)

3. Example – An individual whose new license or registration was granted in 2010 is exempt from the continuing education requirements for the period beginning January 1, 2009 and ending December 31, 2010.
 - (e) The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a continuing education cycle toward the required hourly total regardless of the number of times the course is attended or completed by any individual licensee.
 - (f) Each practitioner is responsible to attend only courses approved by the Board under Rule 0460-01-.05(3)(d) if credit for continuing education is desired unless prior approval under Rules 0460-01-.05(3)(b) and (e) has been obtained.
 - (g) Notwithstanding the provisions of subparagraph (3) (d), all continuing education courses intended to meet the requirements of Rules 0460-02-.07 (6) (a) 1. (ii), 0460-02-.07 (6) (a) 2. (ii), and 0460-02-.07 (8) (b) shall have prior approval by an Anesthesia Consultant as provided in Rule 0460-02-.07 (11).
- (2) Continuing Education. Proof of Compliance
 - (a) The due date for successful completion of the required continuing education hours is December 31st of the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure or registration renewal year.
 - (b) Each dentist, dental hygienist, and registered dental assistant must, on their biennial renewal application, attest to attendance and successful completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
 - (c) Each dentist, dental hygienist, and registered dental assistant must retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the calendar year in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) Further, it is the responsibility of the practitioner to obtain documentation in the form of a certificate indicating the name of the practitioner attending such course, title of the course taken, date of the course, number of hours obtained for attending the course, and verification of the approved organization sponsoring the course.
 - (e) Any practitioner who, on their biennial renewal application, attests to attendance and successful completion of the required continuing education which in any way is not true will be subject to disciplinary action pursuant to T.C.A. §§ 63-5-124 (a) (1), (2), (3), (7) and (18).
- (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 Board.
 - (a) Course approval procedure for course providers - Unless otherwise provided, all courses shall be offered within Tennessee.
 1. To obtain prior approval the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled

(Rule 0460-01-.05, continued)

meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:

- (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.
 - (vii) how verification of attendance is to be documented.
2. Under no circumstances shall continuing education courses be approved if the materials required by subparts (3) (a) 1. (i) through (3) (a) 1. (vii) are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.
 3. Notwithstanding the provisions of subparagraph (3) (a), any clinic, workshop, seminar or lecture at national, regional, state and local meetings of dentists, dental hygienists, and dental assistants will be recognized for continuing education credit by the Board if
 - (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
 4. Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a dental, dental hygiene, or dental assisting regulatory agency or association from a state that borders Tennessee; and
 - (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
- (b) Course approval procedure for individual licensees and registrants.
1. Any licensee or registrant may seek approval to receive credit for successfully completing continuing education courses by complying with the provisions of subparagraph (3) (a).
 2. To retain course approval, the licensee or registrant must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.
- (c) Continuing Education courses may be presented in any of the following formats:

(Rule 0460-01-.05, continued)

1. Lecture.
 2. Audio or audiovisual - with successful completion of a written post experience examination to evaluate material retention if correspondence course.
 3. Correspondence - with successful completion of a written post experience examination to evaluate material retention.
 4. Any combination of the above.
- (d) The following courses and/or activities need not receive prior approval and shall constitute Board approved continuing education:
1. Courses sponsored or approved by any of the following organizations:
 - (i) American Dental Association or its Constituent or Component Societies.
 - (ii) Academy of General Dentistry or a State Affiliate.
 - (iii) American Dental Hygienists' Association or its Constituent or Component Societies.
 - (iv) Any National, Regional or State Academy or Association of any of the recognized specialty branches of dentistry listed in T.C.A. §63-5-112.
 - (v) National Dental Association or its Constituent or Component Societies.
 - (vi) National Dental Hygiene Association.
 - (vii) Capital City Dental Society.
 - (viii) American Dental Assistants' Association or its Constituent or Component Societies.
 - (ix) Tennessee Dental Hygienists Academy of Advanced Study.
 - (x) Tennessee Department of Health and its affiliated Metropolitan Health Departments, those being the Chattanooga/Hamilton County Health Department, the Davidson County Health Department, the Jackson-Madison County Health Department, the Knox County Health Department, the Memphis and Shelby County Health Department, and the Sullivan County Health Department.
 - (xi) Tennessee Emergency Management Agency (TEMA).
 - (xii) Federal Emergency Management Agency (FEMA).
 2. Educational courses sponsored by an accredited school of dentistry, dental hygiene, or dental assisting. If such course is taken for or assigned quarter or semester credit hours, three (3) semester hours or equivalent quarter hours shall be equivalent to fifteen (15) continuing education hours. No credits will be counted for courses failed.
 3. Five (5) hours of continuing education credit shall be granted for attendance at a state, regional or national dental meeting. A maximum of ten (10) continuing

(Rule 0460-01-.05, continued)

education credits may be earned in this category during the continuing education cycle that precedes the licensure or registration renewal year. These hours are in addition to any continuing education courses attended at any of those meetings.

4. Participation at examinations

- (i) Four (4) hours of continuing education credit shall be awarded each time a licensee participates as an examiner for S.R.T.A.
- (ii) One (1) hour of continuing education credit shall be awarded each time a licensee participates as an examiner for the coronal polishing examination.

5. Hour-for-hour of continuing education credit will be granted for courses in Advanced (ACLS) or Pediatric (PALS) Cardiac Life Support that are taught in accordance with the "Guidelines" of the American Heart Association or the American Red Cross or sponsored by the American Heart Association or the American Red Cross during the continuing education cycle that precedes the licensure or registration renewal year.

6. Twenty (20) hours of continuing education credit will be awarded for authorship of publications relevant to the practice of dentistry (e.g., a book, a chapter of a book, or an article or paper published in a professional peer reviewed journal).

7. Four (4) hours of continuing education credit shall be awarded, during each continuing education cycle that precedes the licensure or registration renewal year, to presenters for each hour of an initial presentation of a formal continuing education course that is a didactic and/or a participatory presentation to review or update knowledge of new or existing concepts and techniques. Hour-for-hour credit will be granted for repeat presentations. This category is limited to a maximum of twenty (20) hours continuing education credit during each continuing education cycle that precedes the licensure or registration renewal year.

- (e) Individual Board members and the Board consultant are vested with the authority to approve continuing education courses submitted in compliance with this rule. All such approvals must be presented to the Board for ratification..

(4) Cardio Pulmonary Resuscitation (CPR)

~~(a) Each dentist, dental hygienist, and dental assistant must attest, check a box, and/or enter signature when applying for biennial renewal of licensure or registration, which indicates current training in basic CPR.~~

(a) Each dentist, dental hygienist, and dental assistant must attest, check a box, and/or enter signature when applying for biennial renewal of licensure or registration, which indicates current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.

- (b) The hours necessary to obtain or maintain C.P.R. may be counted as continuing education hours.

(Rule 0460-01-.05, continued)

- (c) Each dentist, dental hygienist and registered dental assistant must retain independent documentation of CPR training for a period of three (3) years from the end of the calendar year in which the training is received. Such proof must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) The following organizations are approved by the Board for CPR training:
 - 1. The American Red Cross
 - 2. The American Heart Association
 - 3. Programs offered in hospital settings
 - 4. Any organization which receives approval of specially designed CPR courses from the Board after its review.
- (5) Waiver of Continuing Education And/Or CPR Training
- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education and/or the required CPR training if it can be shown to the Board that the failure to comply was not attributable to or was beyond the physical capabilities of the person seeking the waiver.
 - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office:
 - 1. A written request for a waiver which specifies what requirement is sought to be waived and a written and signed explanation of the reasons for the request.
 - 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.
 - (c) A waiver approved by the Board is effective for only the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year for which the waiver is sought unless otherwise specified in writing by the Board.
 - (d) A dentist may not perform dental procedures if C.P.R. training is waived unless another dentist, a dental hygienist or dental assistant currently trained in C.P.R. is present within the confines of the dental office.
 - (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (6) Continuing Education for Reactivation of Retired License or Registration - The continuing education hours obtained as a prerequisite for reactivation of licensure or registration may not be counted toward the continuing education hours required to be obtained before the licensee's or registrant's next biennial renewal.
- (a) Any dentist or dental hygienist who applies for reactivation of a license must comply with the following:
 - 1. If the license has been retired for less than two (2) years, the licensee must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and

(Rule 0460-01-.05, continued)

completion of one half ($\frac{1}{2}$) the number of hours of approved dental-related continuing education required by subparagraphs (1) (a) and (1) (b) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.

2. If the license has been retired for a period of two (2) years or more, but less than five (5) years, the licensee must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board-approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, and at the sole discretion of the Board or its consultant, when information indicates a cause for concern about continued competency, the licensee may be required to contact one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered.
 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, the licensees shall be required to present themselves to one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered. Compliance with any educational recommendations of the evaluating school is required before reinstatement will be considered.
- (b) Any registered dental assistant who applies for reactivation of a registration must comply with the following:
1. If the registrant has been retired for less than two (2) years, the registrant must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of one-half ($\frac{1}{2}$) the number of hours of approved dental-related continuing education required by subparagraph (1) (c) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
 2. If the registrant has been retired for a period of two (2) years or more, but less than five (5) years, the registrant must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twelve (12) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.
 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty-four (24) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.

(Rule 0460-01-.05, continued)

- (c) The dentist, dental hygienist, or registered dental assistant who applies for reactivation of a license must also submit proof or check a box and/or enter signature on a Board form which indicates current training in CPR issued by a Board approved training organization. The hours required to obtain or maintain CPR training shall not constitute continuing education hours.
 - (d) The Board, upon receipt of a written request and explanation, may waive or condition any or all of the continuing education or CPR requirements for reactivation of a retired license in emergency situations.
 - (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (7) Violations
- (a) Any dentist, dental hygienist, or dental assistant who falsely attests to attendance and completion of the required hours of continuing education and/or the CPR training requirement may be subject to disciplinary action pursuant to T.C.A. §63-5-124(A)(1), (3), (7) and (18).
 - (b) Any dentist, dental hygienist, or dental assistant who fails to obtain the required continuing education hours and/or CPR training may be subject to disciplinary action pursuant to T.C.A. §63-5-124(a)(1) and (18).
 - (c) Education hours obtained as a result of compliance with the terms of a settlement or Board Orders in any disciplinary action shall not be counted toward the continuing education hours required to be obtained during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure or registration renewal year.
- (8) Continuing education - In order to retain a limited or comprehensive conscious sedation or deep sedation/general anesthesia permit, a dentist must:
- (a) Maintain current certification in ACLS (a pediatric dentist may substitute PALS); or
 - (b) Certify attendance every two (2) years at a board approved course comparable to ACLS or PALS and devoted specifically to the prevention and management of emergencies associated with conscious sedation or deep sedation/general anesthesia.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-107(c), 63-5-108, 63-5-112, 63-5-114, 63-5-115, 63-5-117, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment to rule filed October 9, 1997; effective December 23, 1997. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed June 13, 2003; effective August 27, 2003. Amendment filed June 18, 2003; effective September 1, 2003. Amendment filed July 22, 2003; effective October 10, 2003. Notice of Withdrawal to subparagraph (3)(c) filed and effective September 24, 2003. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed August 23, 2005; effective November 6, 2005. Amendment filed July 10, 2006; effective September 23, 2006. Amendments filed September 25, 2008; effective December 9, 2008. Amendment filed August 4, 2009; effective November 2, 2009. Amendment filed October 22, 2010; effective January 20, 2011.

**RULES
OF
TENNESSEE BOARD OF DENTISTRY**

**CHAPTER 0460-02
RULES GOVERNING THE PRACTICE OF DENTISTRY**

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0460-02-.01 LICENSURE PROCESS - BY EXAM AND BY CRITERIA (RECIPROCITY).

- (1) The process for obtaining licensure by exam or by criteria (reciprocity) is as follows:
- (a) An applicant shall obtain a Board application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
 - (b) An applicant shall cause to be submitted directly, from a dental school, college or university duly accredited by the Commission on Dental Accreditation of the American Dental Association, to the Board Administrative Office a certificate of graduation containing the institution's Official Seal and which shows the following:
 - 1. The applicant's transcript; and
 - 2. The degree and diploma conferred, or a letter from the Dean of the educational institution attesting to the applicant's eligibility for the degree and diploma if the last term of dental school has not been completed at the time of application. However, no license shall be issued until official notification is received in the Board Administrative Office that the degree and diploma have been conferred.
 - (c) An applicant shall submit a signed "passport" style photograph taken within the preceding twelve (12) months.
 - (d) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from dental professionals on the signator's letterhead.
 - (e) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.
 - (f) An applicant shall submit the required fees as provided in Rule 0460-01-.02 (1).
 - (g) An applicant shall disclose the circumstances surrounding any of the following:

(Rule 0460-02-.01, continued)

1. Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 2. The denial of licensure application by any other state or the discipline of licensure in any state.
 3. Loss or restriction of hospital privileges.
 4. Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 5. Failure of any dental licensure examination.
- (h) An 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.
- ~~(i) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board approved training organization.~~
- (i) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (j) An applicant shall indicate whether the applicant is physically capable of performing the procedures included in the practice of dentistry and if not, make explanation.
- (2) In addition to completing the process described in paragraph (1), an applicant for licensure by exam:
- (a) Shall cause to be submitted a certificate of successful completion of the examinations for licensure as governed by Rule 0460-02-.05; and
 - (b) If an applicant for licensure by exam has ever held a license to practice dentistry in any other state or Canada, the applicant shall submit or cause to be submitted directly to the Board's administrative office from each licensing board that has currently or has ever granted authority to practice dentistry indication that the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive.
- (3) In addition to completing the process described in paragraph (1), an applicant for licensure by criteria (reciprocity):
- (a) Shall cause to be submitted directly to the Board's administrative office from each licensing board that has currently or has ever granted authority to practice dentistry indication that the applicant previously held or currently holds a valid license to practice dentistry and is absent of any pending disciplinary charges or action or any current investigation by a disciplinary authority, and

(Rule 0460-02-.01, continued)

1. Shall cause to be submitted directly to the Board's administrative office pertinent information about any disciplinary action imposed in any other state; and
 2. Shall provide a copy of all current and valid licenses to practice dentistry; and
 3. Shall provide the name of another state in which licensure to practice dentistry is or has been held; and
- (b) Shall demonstrate intent to actively practice or teach in Tennessee by submitting proof of employment as a dentist or by submitting proof of starting a private dental practice; and
 - (c) Shall demonstrate that he/she has not failed previously any exams required by Rule 0460-02-.05 without subsequently retaking and passing such exams, if passage of such exams has ever been attempted; and
 - (d) Shall demonstrate that he/she has practiced dentistry in another state or states for at least five (5) years by submitting proof of employment as a dentist or by submitting proof of having had a private dental practice; or
 - (e) Shall demonstrate that he/she has taught in an American Dental Association accredited institution for at least five (5) years; or
 - (f) Shall demonstrate any combination of subparagraphs (d) and (e) for at least five (5) years; or
 - (g) Shall demonstrate that he/she has practiced dentistry in another state or states for at least two (2) years by submitting proof of employment as a dentist or by submitting proof of having had a private dental practice, and shall cause to be submitted a certificate of successful completion of an examination administered by another state, as provided in T.C.A. § 63-5-110(b)(6)(D); or
 - (h) Shall demonstrate that he/she has taught in an American Dental Association accredited institution for at least two (2) years, and shall cause to be submitted a certificate of successful completion of the examinations for licensure as governed by Rule 0460-02-.05 or of an examination administered by another state, as provided in T.C.A. § 63-5-110(b)(6)(E); or
 - (i) Shall demonstrate any combination of subparagraphs (g) and (h) for at least two (2) years.
- (4) Application review and licensure decisions required by this rule shall be governed by Rule 0460-01-.04.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-110, 63-5-111, 63-5-124, and 63-5-132. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed November 30, 1989; effective January 14, 1990. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed October 20, 2003; effective January 3, 2004. Amendment filed August 23, 2005; effective November 6, 2005. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed March 17, 2006; effective May 31, 2006.

(Rule 0460-02-.02, continued)

0460-02-.02 DUAL DEGREE LICENSURE PROCESS. The Board may issue a license to practice dentistry in Tennessee to persons who hold both dental and medical degrees and meet the qualifications contained in this rule. The process for obtaining a license by this method is as follows:

- (1) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form or this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
- (2) An applicant shall request that a transcript from a dental school, college or university be sent directly from the institution to the Board Administrative Office. The transcript must show that either a D.D.S. or D.M.D. degree was conferred and carry the official seal of the institution.
- (3) An applicant shall submit a signed and notarized passport photograph taken within the preceding twelve (12) months.
- (4) An applicant must submit evidence of good moral character and competence. Such evidence shall include at least two (2) letters attesting to the applicant's character and ability from licensed dentists or physicians on the signator's letterhead.
- (5) An applicant shall submit proof of United States or Canada citizenship or evidence of being legally entitled to live in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers, or current visa status.
- (6) An applicant shall submit the licensure application fee and state regulatory fees as provided in rule 0460-01-.02 (1).
- (7) If the applicant has ever taken any Board-approved examination as provided in rule 0460-02-.05 (1) (a), an application will not be approved unless and/or until a certification is submitted which indicates that the applicant achieved passing scores on all parts of the examination.
- (8) An applicant shall indicate whether the applicant is physically capable of performing the procedures included in the practice of dentistry and if not, make explanation.
- ~~(9) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board approved training organization.~~
- (9) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (10) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of a country, state or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the disciplinary of licensure in any state.
 - (c) Loss or restriction of hospital privileges.

(Rule 0460-02-.02, continued)

- (d) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any county's or state's statutory, common, or case law.
 - (e) Failure of any dental and/or medical licensure examination.
- (11) An 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.
 - (12) An applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from the licensing board(s) of every state or U.S. territory in which the applicant has ever been licensed as a dentist and/or physician which indicates the applicant either holds a current active license(s) and whether it is in good standing, or held a license(s) which is currently inactive and whether it was in good standing at the time it became inactive. An applicant must possess an active dental license which is in good standing in at least one (1) other state or U.S. territory.
 - (13) An applicant shall cause to be submitted a certification which indicates that a graduate training program in a specialty branch of dentistry listed in *T.C.A. §63-5-112* or rule 0460-02-.06 has been successfully completed.
 - (14) An applicant must apply for a specialty certification and successfully complete all requirements for that specialty certification as provided in rule 0460-02-.06 before application for licensure shall be granted.
 - (15) An applicant shall submit a copy of an active, current license to practice medicine in Tennessee.
 - (16) Application review and licensure decisions required by this rule shall be governed by rule 0460-01-.04.

Authority: *T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-5-105, 63-5-110, 63-5-111, and 63-5-124.*
Administrative History: *Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed March 17, 2006; effective May 31, 2006.*

0460-02-.03 LIMITED AND EDUCATIONAL LIMITED LICENSURE PROCESS. Any dentist who has completed the requirements set forth in this rule may be issued a limited license for the practice of dentistry in American Dental Association accredited institutions, or dental education programs, or in federally-designated health professional shortage areas, or may be issued an educational limited license to practice dentistry under the auspices of a dental educational institution. The educational limited license limits the dentist's location and activity to teaching and practice in programs offered only through the educational institution. It does not authorize independent private practice in any location.

- (1) The process for obtaining a limited or an educational limited license is as follows:
 - (a) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all

(Rule 0460-02-.03, continued)

activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.

- (b) An applicant shall submit a signed "passport" style photograph taken within the preceding twelve (12) months.
- (c) An applicant must submit evidence of good moral character and professional competence. Such evidence shall include at least two (2) letters attesting to the applicant's character and ability from licensed dentists on the signator's letterhead.
- (d) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.
- (e) An applicant shall submit the required fees as provided in Rule 0460-01-.02 (1).
- ~~(f) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board approved training organization.~~
- (f) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (g) An applicant shall indicate whether the applicant is physically capable of performing the procedures included in the practice of dentistry and if not, make explanation.
- (h) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 - 2. The denial of licensure application by any other state or the discipline of licensure in any state.
 - 3. Loss or restriction of hospital privileges.
 - 4. Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - 5. Failure of any dental licensure examination.
- (i) An 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.
- (j) An applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from the licensing board(s) of every state in which the applicant has ever been licensed which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive.

(Rule 0460-02-.03, continued)

- (2) In addition to completing the process described in paragraph (1), an applicant for limited licensure:
- (a) Shall cause a transcript from a dental school, college or university to be sent directly from the institution to the Board Administrative Office that shows the equivalent of the D.D.S. or the D.M.D. degree was conferred and carries the official seal of the institution; and
 - (b) Shall cause to be submitted, directly from Educational Credential Evaluators, Inc. (www.ece.org) to the Board Administrative Office, a "Course-By-Course Evaluation Report" that indicates the applicant has successfully completed the equivalent of four (4) years of study in a dentistry program in the United States; and
 - (c) Shall cause to be submitted, directly from the educational institution to the Board Administrative Office, certification of successful completion of a graduate training program in a recognized specialty branch of dentistry from an advanced specialty program accredited by the American Dental Association; and
 - (d) Shall cause to be submitted, directly from the examination agency to the Board Administrative Office, certification of successful completion of the National Board examination; and
 - (e) Shall cause, if practice is to occur in American Dental Association accredited institutions or dental education programs, the Dean or Director of the dental educational institution at which the applicant is to be employed to submit upon application for licensure and renewal of licensure, on behalf of the applicant, a letter of recommendation for limited licensure and a copy of the contract employing the applicant as a faculty member at the institution; or
 - (f) Shall submit when applying for licensure and when applying for renewal of licensure, if practice is to be in a federally-designated health professional shortage area, proof of employment as a dentist or proof of starting/maintaining a private dental practice; and
 - (g) If the applicant has ever taken any regional testing agency examination or any other Board-approved examination as provided in rule 0460-02-.05, an application will not be approved unless and/or until a certification is submitted which indicates that the applicant achieved passing scores on all parts of the examination.
- (3) In addition to completing the process described in paragraph (1), an applicant for educational limited licensure:
- (a) Shall cause a transcript from a dental school, college or university to be sent, directly from the institution to the Board Administrative Office, that shows the degree was conferred and carries the official seal of the institution; and
 - (b) Shall cause the Dean or Director of the dental educational institution at which the applicant is to be employed to submit upon application for licensure and renewal of licensure, on behalf of the applicant, a letter of recommendation for educational limited licensure and a copy of the contract employing the applicant as a faculty member at the institution; and
 - (c) Shall possess an active license which is in good standing in at least one (1) other state that was active for at least one (1) year prior to application; and

(Rule 0460-02-.03, continued)

- (d) If the applicant has ever taken any regional testing agency examination or any other Board-approved examination as provided in rule 0460-02-.05, an application will not be approved unless and/or until a certification is submitted which indicates that the applicant achieved passing scores on all parts of the examination.
- (4) When a limited or educational limited licensee is employed at an educational institution or program, the licensee shall cause the Dean or Director of the educational institution or program to immediately notify the Board in writing of the termination of the licensee's employment and the reasons therefore. Such notification terminates the licensee's authority to practice in Tennessee.
- (5) When a limited licensee is no longer practicing dentistry in a federally-designated health professional shortage area, the licensee shall immediately notify the Board in writing. Such notification terminates the licensee's authority to practice in Tennessee.
- (6) Limited and educational limited licensees are subject to all rules governing renewal, retirement, reinstatement and reactivation as provided by Rules 0460-02-.08 and .09. These licenses are also subject to disciplinary action for the same causes and pursuant to the same procedures as active licenses. Under no circumstance shall a limited or educational limited license be renewed without payment of the required biennial renewal fee as stated in Rule 0460-01-.02, and completion of the annual continuing education requirement as stated in Rule 0460-01-.05 (1).
- (7) Application review and licensure decisions required by this rule shall be governed by Rule 0460-01-.04.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-110, 63-5-111, 63-5-124.

Administrative History: Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 21, 1989; effective November 5, 1989. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed October 20, 2003; effective January 3, 2004. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed July 10, 2006; effective September 23, 2006.

0460-02-.04 LICENSURE EXEMPTION PROCESS. Any person who pursuant to T.C.A. §63-5-109, may be eligible to practice dentistry in Tennessee without a Tennessee dental license or with a Board issued exemption from licensure may practice or secure an exemption upon compliance with any of the following which apply to the person's circumstances:

- (1) Dentists licensed in Tennessee who intend to call into Tennessee, a dentist licensed in another state for consultative or operative purposes, must obtain prior or advance approval by submitting a letter of request to the Board Administrative Office. In emergency situations, telephone requests for prior approval may be utilized.
- (2) The director of any special project not affiliated with a state supported institution or public health agency who intends to employ dentists licensed in another state must obtain approval of the special project by submitting a letter of request to the Board Administrative Office which sets forth all particulars of the special project. Dentists employed in the approved special projects may practice only until the next Board-approved examination as provided in rule 0460-02-.05 (1) (a). However, dentists employed in such projects who are under the sponsorship of a dentist licensed in Tennessee and are under the auspices of a local dental society may only be employed for a period of six (6) months.

(Rule 0460-02-.05, continued)

- (b) The National Board if the applicant graduated from a dental college, school or university after 1972.
- (2) Admission to, application for and the fees required to sit for the regional examinations and the National Board examinations are governed by and must be submitted to the testing agency. Admission to, application for and the fees required to sit for any other Board-approved examination must be submitted to the Board as provided in rule 0460-01-.02, or at the Board's option, its designated exam administrator.
 - (3) Passing scores on the regional and National Board examinations are determined by the testing agency. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of those examinations. Passing scores for any other Board-approved examination are determined by the Board.
 - (4) Applicants must supply or furnish their own patients, instruments and materials as required by the testing agency, the Board, or the Board's designated exam administrator.
 - (5) Applicant's who fail to successfully complete any of the examinations may apply for reexamination.
 - (6) Oral examination may be required pursuant to rule 0460-01-.04.
 - (7) The Board adopts as its own, the determination made by the regional testing agencies and the National Boards of the length of time that a passing score on their respective examinations will be effective for purposes of measuring competency and fitness for dental licensure; however, an applicant's test scores from any Board-approved examination as provided in subparagraph (1) (a) which were taken over five (5) years before application was made for licensure in Tennessee will be considered by the Board on a case by case basis after the applicant appears before the Board for an examination.
 - (8) Applicants for licensure who have failed three (3) times the National Board or any Board-approved examination as provided in subparagraph (1) (a) must successfully complete a remedial course of post-graduate studies at a school accredited by the American Dental Association before consideration for licensure by the Board. The applicant shall cause the program director of the post-graduate program to provide written documentation of the content of such course and certify successful completion.
 - (9) If an applicant has successfully completed a clinical board examination administered by another state and is applying for licensure pursuant to Rule 0460-02-.01 (3) (g), (h), or (i), it is that applicant's responsibility to submit documentation substantiating the appropriateness of such examination. The Board shall make the final decision to accept or reject such examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-110, 63-5-111, and 63-5-114. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed August 28, 2001; effective November 11, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed October 20, 2003; effective January 3, 2004. Amendment filed April 5, 2006; effective June 19, 2006.

0460-02-.06 SPECIALTY CERTIFICATION.

- (1) Recognized Specialties - The Board recognizes and will issue specialty certification in the following branches of dentistry:

(Rule 0460-02-.06, continued)

- (a) Dental Public Health;
 - (b) Endodontics;
 - (c) Oral and Maxillofacial Radiology;
 - (d) Oral and Maxillofacial Surgery;
 - (e) Oral and Maxillofacial Pathology;
 - (f) Orthodontics and Dentofacial Orthopedics;
 - (g) Pediatric Dentistry (Pedodontics);
 - (h) Periodontics;
 - (i) Prosthodontics.
- (2) Certification - To become certified as a specialist in a particular branch of dentistry an applicant must be licensed as a dentist in Tennessee except those persons eligible for licensure pursuant to rule 0460-02-.02, and comply with the following:
- (a) An applicant shall obtain a specialty application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form or this rule to the Board Administrative Office.
 - (b) An applicant shall submit the specialty certification application fee as provided in rule 0460-01-.02 (1).
 - ~~(c) — An applicant who is not certified as a specialist in another state shall have a letter sent directly from the secretary of the American Board of the particular specialty for which application is made, to the Board Administrative Office which indicates that the applicant is certified by the American Board in that specialty and that the applicant is in good standing. All such certificates approved by the Board may be accepted as sufficient for specialty certification in lieu of submitting proof of successful completion of a residency program in a specialty. Acceptance of such certificates is discretionary with the Board.~~
 - (c) An applicant shall submit verification of one of the following:
 - 1. Successful completion of the specialty training as provided in the section of this rule for the specific specialty that the applicant is applying for; or
 - 2. Certification as a specialist by the American Board of the particular specialty for which application is made. A letter must be sent directly from the secretary of the American Board of the particular specialty to the Board Administrative Office which indicates that the applicant is certified by the American Board in that specialty and that the applicant is in good standing. All such certificates approved by the Board may be accepted as sufficient for specialty certification in lieu of submitting proof of successful completion of a residency program in a specialty. Acceptance of such certificates is discretionary with the Board.
 - (d) An applicant shall submit any other documentation required by the Board after review of the application.

(Rule 0460-02-.06, continued)

- ~~(e) — An applicant who is certified as a specialist in another state whose requirements for specialty certification are substantially equivalent to those requirements in Tennessee shall have that state's licensing board send proof to the Board Administrative Office which indicates that the applicant is certified in that specialty and that the applicant is in good standing.~~
- (e) An applicant who is certified as a specialist in another state shall have that state's licensing board send proof to the Board Administrative Office which indicates that the applicant is certified in that specialty and that the applicant is in good standing.
- (f) Application review and decisions required by this rule are governed by rule 0460-01-.04.
- (3) Examination - All specialty applicants shall submit to an oral examination even if certification from an American Board in a specialty is accepted in lieu of submitting proof of successful completion of a residency program in a specialty.
- (4) Dental Public Health - The requirements for certification in this specialty shall be those required by the American Dental Association as regards its regulation of this specialty branch of dentistry.
- ~~(5) — Endodontics — An applicant must submit certification of successful completion of at least two (2) years of postgraduate training in Endodontics at the university level in a program approved by the Council on Dental Education of the American Dental Association and the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~
- (5) Endodontics - An applicant must submit certification of successful completion of at least two (2) years of postgraduate training in Endodontics at the university level in a program approved by the Council on Dental Education of the American Dental Association and the Board. Such evidence shall include either a transcript which indicates completion of the postgraduate training in endodontics or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.
- ~~(6) — Oral and Maxillofacial Pathology — An applicant must submit certification of successful completion of two (2) years of postgraduate training in Oral Pathology or Oral and Maxillofacial Pathology at the university level in a program approved by the Council on Dental Education of the American Dental Association and the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~
- (6) Oral and Maxillofacial Pathology - An applicant must submit certification of successful completion of two (2) years of postgraduate training in Oral Pathology or Oral and Maxillofacial Pathology at the university level in a program approved by the Council on Dental Education of the American Dental Association and the Board. Such evidence shall include either a transcript which indicates completion of the postgraduate training in oral pathology or oral and maxillofacial pathology or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.
- ~~(7) — Oral and Maxillofacial Radiology — An applicant must submit certification of successful completion of graduate study in Oral and Maxillofacial Radiology of at least two (2) years in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association. Such evidence shall include either a transcript or a notarized~~

(Rule 0460-02-.06, continued)

~~certificate of completion letter from the director of the program submitted directly from the school to the Board Administrative Office.~~

(7) Oral and Maxillofacial Radiology – An applicant must submit certification of successful completion of graduate study in Oral and Maxillofacial Radiology of at least two (2) years in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association. Such evidence shall include either a transcript which indicates completion of the postgraduate training in oral and maxillofacial radiology or a certificate of completion letter from the director of the program submitted directly from the school to the Board Administrative Office.

(8) Oral and Maxillofacial Surgery.

~~(a) —An applicant must provide to the Board Administrative Office certification of successful completion of advanced study in Oral and Maxillofacial Surgery of four (4) years or more in a graduate school or hospital accredited by the Commission on Dental Accreditation (CODA) or the American Dental Association and the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative office.~~

(a) An applicant must provide to the Board Administrative Office certification of successful completion of advanced study in Oral and Maxillofacial Surgery of four (4) years or more in a graduate school or hospital accredited by the Commission on Dental Accreditation (CODA) or the American Dental Association and the Board. Such evidence shall include either a transcript which indicates completion of the postgraduate training in oral and maxillofacial surgery or a certificate of completion letter from the director of the program submitted directly from the school to the Board Administrative Office.

(b) Oral and Maxillofacial Surgery is the specialty area of the treatment of the oral cavity and maxillofacial area or adjacent or associated structures and their impact on the human body that includes the performance of the following areas of Oral and Maxillofacial Surgery, as described in the most recent version of the Parameters and Pathways: Clinical Practice Guidelines for Oral and Maxillofacial Surgery of the American Association of Oral and Maxillofacial Surgeons:

1. Patient assessment;
2. Anesthesia in outpatient facilities, as provided in T.C.A. §§ 63-5-105 (6) and 63-5-108 (g);
3. Dentoalveolar surgery;
4. Oral and craniomaxillofacial implant surgery;
5. Surgical correction of maxillofacial skeletal deformities;
6. Cleft and craniofacial surgery;
7. Trauma surgery;
8. Temporomandibular joint surgery;
9. Diagnosis and management of pathologic conditions;

(Rule 0460-02-.06, continued)

10. Reconstructive surgery including the harvesting of extra oral/distal tissues for grafting to the oral and maxillofacial region; and
 11. Cosmetic maxillofacial surgery.
- (c) The Tennessee Board of Dentistry determines that the dental practice of Oral and Maxillofacial Surgery includes the following procedures which the Board finds are included in the curricula of dental schools accredited by the American Dental Association, Commission on Dental Accreditation, post-graduate training programs or continuing education courses:
1. Rhinoplasty;
 2. Blepharoplasty;
 3. Rytidectomy;
 4. Submental liposuction;
 5. Laser resurfacing;
 6. Browlift, either open or endoscopic technique;
 7. Platysmal muscle plication;
 8. Dermabrasion;
 9. Otoplasty;
 10. Lip augmentation; and
 11. Botox injections or future FDA approved neurotoxins.
- (d) Any licensee who lacks the following qualifications and nevertheless performs the procedures and surgery identified in subparagraph (c) shall be subject to discipline by the Board under T.C.A. § 63-5-124, including provisions regarding malpractice, negligence, incompetence or unprofessional conduct:
1. Has successfully completed a residency in Oral and Maxillofacial Surgery accredited by the American Dental Association, Commission on Dental Accreditation (CODA); and
 2. Has successfully completed a clinical fellowship, of at least one (1) continuous year in duration, in esthetic (cosmetic) surgery accredited by the American Association of Oral and Maxillofacial Surgeons or by the American Dental Association Commission on Dental Accreditation; or
 3. Holds privileges issued by a credentialing committee of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to perform these procedures.
- (e) The Board, pursuant to its authority under T.C.A. § 63-5-124, determines that performance of the surgery and procedures identified in subparagraph (c) without the qualifications set out above shall be considered unprofessional conduct and subject to discipline by the Board as such.

(Rule 0460-02-.06, continued)

- (9) Orthodontics and Dentofacial Orthopedics - An applicant must submit, with the application form, documentation of successful completion of one (1) of the following:

~~(a) Certification of successful completion of two (2) academic years of training in Orthodontics and Dentofacial Orthopedics in an approved Postgraduate Department of an accredited dental school, college or university. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~

(a) Certification of successful completion of two (2) academic years of training in Orthodontics and Dentofacial Orthopedics in an approved Postgraduate Department of an accredited dental school, college or university. Such evidence shall include either a transcript which indicates completion of the postgraduate training in orthodontics and dentofacial orthopedics or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.

(b) Certification of successful completion of an organized preceptorship training program in Orthodontics and Dentofacial Orthopedics approved by the Council on Dental Education of the American Dental Association and the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the preceptorship training program, to be submitted directly from the school to the Board Administrative Office.

- (10) Pediatric Dentistry (Pedodontics) - An applicant must submit to the Board Administrative Office certification of successful completion of at least two (2) years of graduate or post graduate study in Pediatric Dentistry according to the following:

(a) If such study is completed in whole or in part at a dental school, college or university, the graduate or postgraduate program must be approved by the Council on Dental Education of the American Dental Association.

(b) The graduate or postgraduate program need not lead to an advanced degree.

(c) The program of study may be pursued in hospitals or clinics or other similar institutions.

(d) One (1) academic year of graduate or postgraduate study will be considered as equivalent to one (1) calendar year.

~~(e) Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~

(e) Such evidence shall include either a transcript which indicates completion of the postgraduate training in pediatric dentistry (pedodontics) or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.

~~(11) Periodontics - An applicant must submit certification of successful completion of at least two (2) years of postgraduate training in Periodontics at the university level in a program approved by the Commission on Dental Education of the American Dental Association and by the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~

(Rule 0460-02-.06, continued)

(11) Periodontics - An applicant must submit certification of successful completion of at least two (2) years of postgraduate training in periodontics at the university level in a program approved by the Commission on Dental Education of the American Dental Association and by the Board. Such evidence shall include either a transcript which indicates completion of the postgraduate training in periodontics or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.

~~(12) Prosthodontics - An applicant must submit certification of successful completion of at least two (2) years of a postdoctoral education in Prosthodontics in a program approved by the Commission on Dental Accreditation of the American Dental Association and the Board. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion furnished by the Board and issued by the director of the program, to be submitted directly from the school to the Board Administrative Office.~~

(12) Prosthodontics - An applicant must submit certification of successful completion of at least two (2) years of a postdoctoral education in Prosthodontics in a program approved by the Commission on Dental Accreditation of the American Dental Association and the Board. Such evidence shall include either a transcript which indicates completion of the postgraduate training in prosthodontics or a certificate of completion letter from the director of the program on letterhead submitted directly from the school to the Board Administrative Office.

(13) General Rules Governing Specialty Practice

- (a) Scope of Practice - Dentists certified in a specialty branch of dentistry must devote and confine a majority of their practice to the certified specialty only. Any specialty certified dentists who do not so confine their practice or who return to general practice must retire specialty certification on forms obtained from and submitted to the Board Administrative Office.
- (b) A current and active dental license issued by the Board is a prerequisite to the continued practice under any specialty certification.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-110, 63-5-112, 63-5-113 and 63-5-122. **Administrative History:** Original rule filed December 11, 1992; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed December 7, 1998; effective February 20, 1999. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed November 17, 2003; effective January 31, 2004. Amendment filed June 18, 2004; effective September 1, 2004. Amendment filed July 21, 2004; effective October 4, 2004. Amendments filed December 28, 2004; effective March 13, 2005. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed July 10, 2006; effective September 23, 2006. Amendment filed October 22, 2010; effective January 20, 2011.

0460-02-.07 ANESTHESIA AND SEDATION.

(1) Definitions

- (a) Advanced Cardiac Life Support (ACLS). A certification that means a person has successfully completed an advanced cardiac life support course offered by a recognized accrediting organization.
- (b) American Society of Anesthesiologists (ASA) Patient Physical Status Classification
 - 1. ASA I - A normal healthy patient.
 - 2. ASA II - A patient with mild systemic disease.
 - 3. ASA III - A patient with severe systemic disease.
 - 4. ASA IV - A patient with severe systemic disease that is a constant threat to life.
 - 5. ASA V - A moribund patient who is not expected to survive without the operation.
 - 6. ASA VI - A declared brain-dead patient whose organs are being removed for donor purposes.
 - 7. E - Emergency operation of any variety (used to modify one of the above classifications, i.e., ASA III-E).
- (c) Antianxiety premedication (anxiolysis). The prescription of pharmacologic substances for the relief of anxiety and apprehension.
- (d) Certified Registered Nurse Anesthetist (CRNA). A registered nurse currently licensed by the Tennessee Board of Nursing who is currently certified as such by the American Association of Nurse Anesthetists.
- (e) Conscious sedation. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof.
- (f) Deep sedation. An induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.
- (g) Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa [i.e., oral, rectal, sublingual].
- (h) General anesthesia. An induced state of unconsciousness accompanied by partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.
- ~~(i) Health Care Provider Life Support. The skills necessary to administer cardiopulmonary resuscitation (CPR) for victims of all ages.~~

(Rule 0460-02-.07, continued)

- (j) Hospital. A hospital licensed by the Department of Health's Division of Health Care Facilities.
 - (k) Inhalation. A technique of administration in which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.
 - (l) Nitrous oxide inhalation analgesia. The administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.
 - (m) Pediatric Advanced Life Support (PALS). A certification that means a person has successfully completed an pediatric advanced life support course offered by a recognized accrediting organization.
 - (n) Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract [i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC)].
 - (o) Physician. A person licensed to practice medicine and surgery pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9.
- (2) Permits required.
- (a) No permit is required for the administration of nitrous oxide inhalation analgesia; however, dentists must comply with the provisions of 0460-02-.07 (4).
 - (b) No permit is required for the use of antianxiety premedication (anxiolysis); however, dentists must comply with the provisions of 0460-02-.07 (5).
 - (c) Dentists must obtain a permit to administer conscious sedation. A conscious sedation permit may be limited or comprehensive.
 - 1. A limited conscious sedation permit authorizes dentists to administer conscious sedation by the enteral and/or combination inhalation-enteral method.
 - 2. A comprehensive conscious sedation permit authorizes a dentist to administer conscious sedation by the enteral, combination inhalation-enteral or parenteral method.
 - 3. Children thirteen (13) and under
 - (i) Dentists who administer conscious sedation by any method to children thirteen (13) and under must have a comprehensive conscious sedation permit.
 - (ii) Agents used to produce conscious sedation/deep sedation/general anesthesia in children thirteen (13) years of age and under must be given under the direct supervision of the dentist.
 - 4. Dentists issued limited or comprehensive conscious sedation permits must comply with rule 0460-02-.07 (6).

(Rule 0460-02-.07, continued)

- (d) Dentists must obtain a permit to administer deep sedation/general anesthesia and comply with rule 0460-02-.07 (7).
- (3) Determination of degree of sedation
- (a) The degree of sedation or consciousness level of a patient is the determinant for the application of these rules, not the route of administration. Determining the degree of sedation or level of consciousness of a patient is based upon:
 - 1. The type and dosage of medication that was administered or was proposed for administration to the patient;
 - 2. The age, physical size and medical condition of the patient receiving the medication; and
 - 3. The degree of sedation or level of consciousness that should reasonably be expected to result from that type and dosage of medication.
 - (b) In a proceeding of the board at which the board must determine the degree of sedation or level of consciousness of a patient, the board will base its findings on the provisions of subparagraph (a).
- (4) Nitrous oxide inhalation analgesia.
- (a) Nitrous oxide may be administered by a licensed dentist or a licensed and properly certified dental hygienist under the direct supervision of a licensed dentist. The administering or supervising dentist must be on the premises at all times that nitrous oxide is in use.
 - (b) An authorized person must constantly monitor each patient receiving nitrous oxide. In addition to dentists, any licensed dental hygienist or registered dental assistant who has complied with rules 0460-03-.06 or 0460-04-.05 is an authorized person and may monitor patients who are receiving nitrous oxide.
 - (c) Monitoring nitrous oxide. Monitoring patients receiving nitrous oxide inhalation analgesia as an adjunct to dental or to dental hygiene procedures consists of continuous direct clinical observation of the patient and begins after the dentist or dental hygienist has initiated the analgesia. The dentist must be notified of any change in the patient which might indicate an adverse effect on the patient. Those certified in nitrous oxide monitoring may terminate the administration of nitrous oxide inhalation analgesia.
 - (d) All equipment for the administration of nitrous oxide must be designed specifically to guarantee that an oxygen concentration of no less than thirty percent (30%) can be administered to the patient.
 - (e) All equipment for the administration of nitrous oxide must be equipped with a scavenger system.
- (5) Antianxiety premedication (anxiolysis).
- (a) The regulation and monitoring of this modality of treatment are the responsibility of the ordering dentist. The drugs used should carry a margin of safety wide enough to never render unintended loss of consciousness. If the administration is for antianxiety purposes, the appropriate initial dosing of a single enteral drug can be no more than the maximum recommended dose (MRD) of a drug that can be prescribed for non-

(Rule 0460-02-.07, continued)

monitored home use. The co-administration of nitrous oxide is allowed. If the MRD is exceeded then a limited conscious sedation permit is required.

~~(b) — A dentist using antianxiety premedication must employ auxiliary personnel who are certified in Health Care Provider Life Support.~~

(b) A dentist using antianxiety premedication must employ auxiliary personnel who are certified in BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.

(c) All antianxiety premedications and all sedation techniques (except nitrous oxide and oxygen) used for children age thirteen (13) and under require a comprehensive conscious sedation permit.

(6) Conscious sedation.

(a) Dentists must obtain a permit from the Board of Dentistry to administer conscious sedation in the dental office. Conscious sedation permits are either limited or comprehensive.

1. To obtain a limited conscious sedation permit, a dentist must provide proof of current certification in ACLS (a pediatric dentist may substitute PALS), and must provide proof of one (1) of the following:

- (i) Completion of an ADA accredited postdoctoral training program which affords comprehensive training necessary to administer and manage enteral and/or combination inhalation-enteral conscious sedation, or
- (ii) Completion of a continuing education course which consists of a minimum of twenty four (24) hours of didactic instruction plus ten (10) clinically-oriented experiences which provide competency in enteral and/or combination inhalation-enteral conscious sedation.

2. To obtain a comprehensive conscious sedation permit, a dentist must provide proof of current certification in ACLS (a pediatric dentist may substitute PALS), and must provide proof of one (1) of the following:

- (i) Completion of an ADA accredited postdoctoral training program which affords comprehensive training to administer and manage parenteral conscious sedation, or
- (ii) Completion of a continuing education course consisting of a minimum of sixty (60) hours of didactic instruction plus the management of at least twenty (20) patients which provides competency in parenteral conscious sedation. The course content must be consistent with that described for an approved continuing education program in these techniques in the ADA Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry, 2000 edition, or its successor publication, or
- (iii) Possess on the effective date of this regulation a current valid intravenous conscious sedation permit issued by the board. Such dentist will be issued a new comprehensive conscious sedation permit and must comply with the general rules set forth in this regulation.

(Rule 0460-02-.07, continued)

3. Dentists who provide conscious sedation for children must provide evidence of adequate training in pediatric sedation techniques and in pediatric resuscitation including the recognition and management of pediatric airway and respiratory problems.
 4. A dentist who utilizes a Certified Registered Nurse Anesthetist (CRNA) to administer conscious sedation must have a valid comprehensive conscious sedation permit.
 5. A dentist may utilize a physician (MD or DO), who is a member of the anesthesiology staff of an accredited hospital, or a permitted dentist to administer conscious sedation in that dentist's office. Such person must remain on the premises of the dental facility until all patients given conscious sedation meet discharge criteria. The office must comply with the general rules for conscious sedation, i.e. rule 0460-02-.07 (6) (b). A dentist utilizing such person and complying with these provisions does not require a conscious sedation permit.
- (b) General rules for conscious sedation.
1. Physical facilities.
 - (i) The treatment room must be large enough to accommodate the patient adequately on a table or in a dental chair and to allow an operating team, consisting of at least two persons, to move freely about the patient.
 - (ii) The operating table or dental chair must allow the patient to be placed in a position such that the operating team can maintain the airway, allow the operating team to alter the patient's position quickly in an emergency, and provide a firm platform for the management of cardiopulmonary resuscitation.
 - (iii) The lighting system must be adequate to allow an evaluation of the patient's skin and mucosal color and provide adequate light for the procedure.
 - (iv) Suction equipment must be available that allows aspiration of the oral and pharyngeal cavities.
 - (v) A system for delivering oxygen must have adequate full-face masks and appropriate connectors, and be capable of delivering oxygen to the patient under positive pressure.
 - (vi) A recovery area must be provided that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area may be the treatment room. A member of the staff must be able to observe the patient at all times during the recovery.
 - (vii) An alternate lighting system sufficiently intense to allow completion of any procedure and an alternate suction device that will function effectively must be available for emergency use at the time of a general power failure.
 - (viii) In offices where pediatric patients are treated, appropriate sized equipment must be available.

(Rule 0460-02-.07, continued)

- (ix) Inspections of the anesthesia equipment shall be made each day the equipment is used and a log kept recording the inspection and its results.
2. Personnel.
- (i) During conscious sedation at least one (1) person, in addition to the operating dentist, must be present.
 - ~~(ii) Members of the operating team must be trained for their duties according to protocol established by the dentist and must be currently certified in Health Care Provider Life Support.~~
 - (ii) Members of the operating team must be trained for their duties according to protocol established by the dentist and must be currently certified in BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
 - (iii) All operatory room and/or recovery personnel who provide clinical care shall hold a current, appropriate Tennessee license/registration pursuant to Tennessee Code Annotated, Title 63.
 - (iv) Unlicensed/unregistered personnel may not be assigned duties or responsibilities that require professional licensure.
 - (v) Notwithstanding the provisions of part (iv), duties assigned to unlicensed/unregistered personnel shall be in accordance with their training, education, and experience and under the direct supervision of a licensed dentist.
3. Patient evaluation. Patients subjected to conscious sedation must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II) this may be simply a review of their current medical history and medication use. However with individuals who may not be medically stable or who have a significant health disability (ASA III, IV) consultation with their primary care physician or consulting medical specialist is indicated.
4. Dental records. The dental record must include:
- (i) A medical history including current medications and drug allergies;
 - (ii) Informed consent for the type of anesthesia used;
 - (iii) Baseline vital signs including blood pressure and pulse. If determination of baseline vital signs is prevented by the patient's age, physical resistance or emotional condition, the reason(s) should be documented;
 - (iv) A time-oriented anesthesia record which includes the drugs and dosage administered;
 - (v) Documentation of complications or morbidity; and
 - (vi) Status of the patient on discharge.

(Rule 0460-02-.07, continued)

5. Monitoring

- (i) Direct clinical observation of the patient must be continuous;
- (ii) Interval recording of blood pressure and pulse must occur;
- (iii) Oxygen saturation must be evaluated continuously by a pulse oximeter;
- (iv) The patient must be monitored during recovery by trained personnel until stable for discharge;
- (v) If monitoring procedures are prevented by the patient's age, physical resistance or emotional condition, the reason(s) should be documented; and
- (vi) If a patient enters a deeper level of sedation than the dentist is qualified to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation.

6. Emergency management.

- (i) Written protocols must be established by the dentist to manage emergencies related to conscious sedation including but not limited to laryngospasm, bronchospasm, emesis and aspiration, airway occlusion by foreign body, angina pectoris, myocardial infarction, hypertension, hypotension, allergic and toxic reactions, convulsions, hyperventilation and hypoventilation.
- (ii) Training to familiarize the operating team with these protocols must be periodic and current. Regular staff education programs and training sessions shall be provided and documented which include sessions on emergencies, life safety, medical equipment, utility systems, infection control, and hazardous waste practices.
- (iii) A cardiac defibrillator must be available.
- (iv) Equipment and drugs on a list available from the Board and currently indicated for the treatment of the above listed emergency conditions must be present and readily available for use. Emergency protocols must include training in the use of this equipment and these drugs.

7. Recovery and discharge.

- (i) Patients must be monitored for adequacy of ventilation and circulation. The dental record must reflect that ventilation and circulation are stable and the patient is appropriately responsive prior to discharge.
- (ii) The dental office must develop specific criteria for discharge parameters for conscious sedation for both adult and pediatric patients.
- (iii) The dental record must reflect that appropriate discharge instructions were given, and that the patient was discharged into the care of a responsible person.

(7) Deep sedation/general anesthesia.

(Rule 0460-02-.07, continued)

- (a) Dentists must obtain a permit from the Board of Dentistry to administer deep sedation/general anesthesia in the dental office.

1. Obtaining the permit

- (i) To obtain a deep sedation/general anesthesia permit, a dentist must provide proof of current certification in ACLS (a pediatric dentist may substitute PALS), and must provide certification of one (1) of the following:

(I) Successful completion of a minimum of one (1) year advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program as described in the ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, 2000 edition, or its successor publication, or

(II) Proof of successful completion of a graduate program in oral and maxillofacial surgery which has been approved by the Commission on Accreditation of the American Dental Association; or

(III) Proof of successful completion of a residency program in general anesthesia of not less than one (1) calendar year that is approved by the Board of Directors of the American Dental Society of Anesthesiology for eligibility for the Fellowship in General Anesthesia or proof that the applicant is a Diplomate of the American Board of Dental Anesthesiology; or

(IV) Possess on the effective date of this regulation a current, valid general anesthesia permit issued by the board. Such dentists will be issued a new deep sedation/general anesthesia permit and must comply with the general rules set forth in this regulation.

- (ii) Dentists who provide deep sedation/general anesthesia for children must provide evidence of adequate training in pediatric sedation techniques, in general anesthesia, and in pediatric resuscitation including the recognition and management of pediatric airway and respiratory problems.

2. A dentist may utilize a physician (MD or DO), who is a member of an anesthesiology staff of an accredited hospital, or another dentist who holds a deep sedation/general anesthesia permit to administer deep sedation or general anesthesia in that dentist's office. Such person must remain on the premises of the dental facility until all patients given deep sedation or general anesthesia meet discharge criteria. The office must comply with the general rules for deep sedation/general anesthesia, i.e. rule 0460-02-.07 (7) (b). A dentist utilizing such person and complying with these provisions does not require a deep sedation/general anesthesia permit.

3. A dentist who utilizes a Certified Registered Nurse Anesthetist (CRNA) to administer deep sedation/general anesthesia must have a valid deep sedation/general anesthesia permit.

4. A dentist who holds a deep sedation/general anesthesia permit may administer conscious sedation.

- (b) General rules for deep sedation/general anesthesia.

(Rule 0460-02-.07, continued)

1. Physical facilities.

- (i) The treatment room must be large enough to accommodate the patient adequately on a table or in a dental chair and to allow an operating team, consisting of at least three (3) persons, to move freely about the patient.
- (ii) The operating table or dental chair must allow the patient to be placed in a position such that the operating team can maintain the airway, allow the operating team to alter the patient's position quickly in an emergency, and provide a firm platform for the management of cardiopulmonary resuscitation.
- (iii) The lighting system must be adequate to allow an evaluation of the patient's skin and mucosal color and provide adequate light for the procedure.
- (iv) Suction equipment must be available that allows aspiration of the oral and pharyngeal cavities.
- (v) A system for delivering oxygen must have adequate full-face masks and appropriate connectors, and be capable of delivering oxygen to the patient under positive pressure.
- (vi) A recovery area must be provided that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area may be the treatment room. A member of the staff must be able to observe the patient at all times during the recovery.
- (vii) An alternate lighting system sufficiently intense to allow completion of any procedure and an alternate suction device that will function effectively must be available for emergency use at the time of a general power failure.
- (viii) In offices where pediatric patients are treated, appropriate sized equipment must be available.
- (ix) Inspections of the anesthesia equipment shall be made each day the equipment is used and a log kept recording the inspection and its results.

2. Personnel.

- (i) During deep sedation/general anesthesia at least two (2) persons, in addition to the operating dentist, must be present.
- ~~(ii) Members of the operating team must be trained for their duties according to protocol established by the dentist and must be currently certified in Health Care Provider Life Support.~~
- (ii) Members of the operating team must be trained for their duties according to protocol established by the dentist and must be currently certified in BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.

(Rule 0460-02-.07, continued)

- (iii) When the same individual administering the deep sedation/general anesthesia is performing the dental procedure, there must be a second (2nd) individual trained in patient monitoring.
 - (iv) All operatory room and/or recovery personnel who provide clinical care shall hold a current, appropriate Tennessee license/registration pursuant to Tennessee Code Annotated, Title 63.
 - (v) Unlicensed/unregistered personnel may not be assigned duties or responsibilities that require professional licensure.
 - (vi) Notwithstanding the provisions of subpart (v), duties assigned to unlicensed/unregistered personnel shall be in accordance with their training, education, and experience and under the direct supervision of a licensed dentist.
3. Patient evaluation. Patients subjected to deep sedation/general anesthesia must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II) this may be simply a review of their current medical history and medication use. However with individuals who may not be medically stable or who have a significant health disability (ASA III, IV) consultation with their primary care physician or consulting medical specialist is indicated.
4. Dental records. The dental record must include:
- (i) A medical history including current medications and drug allergies;
 - (ii) Informed consent for the type of anesthesia used;
 - (iii) Baseline vital signs including blood pressure, pulse and temperature. If determination of baseline vital signs is prevented by the patient's age, physical resistance or emotional condition the reason(s) should be documented;
 - (iv) A time-oriented anesthesia record which includes the drugs and dosage administered and an interval recording of blood pressure and pulse;
 - (v) Documentation of complications or morbidity; and
 - (vi) Status of the patient on discharge.
5. Monitoring.
- (i) Direct clinical observation of the patient must be continuous;
 - (ii) Interval recording of blood pressure and pulse must occur;
 - (iii) Oxygen saturation must be monitored continuously by pulse oximeter;
 - (iv) Continuous EKG monitoring with electrocardioscope must occur;
 - (v) Respirations must be monitored for intubated patients by auscultation of breath sounds or end tidal CO₂;

(Rule 0460-02-.07, continued)

- (vi) If anesthetic agents implicated in the etiology of malignant hyperthermia are used, body temperature must continuously be monitored; and
 - (vii) The patient must be monitored during recovery by trained personnel until stable for discharge.
6. Emergency management.
- (i) Written protocols must be established by the dentist to manage emergencies related to deep sedation/general anesthesia including but not limited to laryngospasm, bronchospasm, emesis and aspiration, airway occlusion by foreign body, angina pectoris, myocardial infarction, hypertension, hypotension, allergic and toxic reactions, convulsions, hyperventilation and hypoventilation.
 - (ii) If anesthetic agents implicated in the etiology of malignant hyperthermia are used, protocols to treat the malignant hyperthermia must be established.
 - (iii) Training to familiarize the operating team with these protocols must be periodic and current. Regular staff education programs and training sessions shall be provided and documented which include sessions on emergencies, life safety, medical equipment, utility systems, infection control, and hazardous waste practices.
 - (iv) A cardiac defibrillator must be available.
 - (v) Equipment and drugs on a list available from the Board and currently indicated for the treatment of the above listed emergency conditions must be present and readily available for use. Emergency protocols must include training in the use of this equipment and these drugs.
7. Recovery and discharge.
- (i) Patients must be monitored for adequacy of ventilation and circulation. The dental record must reflect that ventilation and circulation are stable and the patient is appropriately responsive prior to discharge.
 - (ii) The dental office must develop specific criteria for discharge parameters for deep sedation/general anesthesia for both adult and pediatric patients.
 - (iii) The dental record must reflect that appropriate discharge instructions were given, and that the patient was discharged into the care of a responsible adult.
- (8) Continuing education. In order to maintain a limited or comprehensive conscious sedation or deep sedation/general anesthesia permit, a dentist must:
- (a) Maintain current certification in ACLS (a pediatric dentist may substitute PALS); or
 - (b) Certify attendance every two (2) years at a board approved course comparable to ACLS or PALS and devoted specifically to the prevention and management of emergencies associated with conscious sedation or deep sedation/general anesthesia; and
 - (c) Obtain a minimum of four (4) hours of continuing education in the subject of anesthesia and/or sedation as part of the required forty (40) hours of continuing education for

(Rule 0460-02-.07, continued)

dental licensure. ACLS or PALS certification shall not be included as any part of the required four (4) hours.

- (9) Reporting injury or mortality.
- (a) A written report shall be submitted to the board by the dentist within thirty (30) days of any anesthesia-related incident resulting in patient injury or mortality, which occurred when the patient was under the care of the dentist and required hospitalization. In the event of patient mortality, concurrent with a sedation or anesthesia-related incident, this incident must be reported to the board within two (2) working days, to be followed by the written report within thirty (30) days.
- (b) A written report shall include:
1. Description of dental procedure;
 2. Description of preoperative physical condition of the patient;
 3. List of the drugs and dosages administered;
 4. Detailed description of techniques utilized in administering the drugs;
 5. Description of adverse occurrence to include:
 - (i) Detailed description of symptoms of any complications including, but not limited to, onset and type of symptoms in the patient;
 - (ii) Treatment instituted on patient; and
 - (iii) Response of the patient to treatment; and
 6. Description of the patient's condition on termination of any procedure undertaken.
- (10) Permit process (limited conscious sedation, comprehensive conscious sedation, deep sedation/general anesthesia).
- (a) To obtain a limited or comprehensive conscious sedation permit or deep sedation/general anesthesia permit, a dentist must apply on an application form provided by the board and submit the appropriate fee as established by the board.
- (b) The applicant must submit acceptable proof to the Board:
1. For a limited conscious sedation permit:
 - (i) That the educational requirements of 0460-02-.07 (6) (a) 1. are met; and
 - (ii) Compliance with general rules 0460-02-.07 (6) (b).
 2. For a comprehensive conscious sedation permit:
 - (i) That the educational requirements of 0460-02-.07 (6) (a) 2. are met; and
 - (ii) Compliance with general rules 0460-02-.07 (6) (b).
 3. For a deep sedation/general anesthesia permit:

(Rule 0460-02-.07, continued)

- (i) That the educational requirements of 0460-02-.07 (7) (a) have been met; and
 - (ii) Compliance with general rules 0460-02-.07 (7) (b).
- (c) A permit must be renewed every two (2) years by payment of the appropriate renewal fee as established by the board and by certification of the continuing education requirement [0460-02-.07 (8)] and by certification of compliance with the general rules for conscious sedation [0460-02-.07 (6) (b)] or deep sedation/general anesthesia [0460-02-.07 (7) (b)].

(11) Anesthesia Consultants

- (a) In addition to the Board Consultant and his/her duties, as provided in Rule 0460-01-.03, Anesthesia Consultants shall be appointed by the board to assist the board in the administration of this rule. All Anesthesia Consultants shall be licensed to practice dentistry in Tennessee and shall all hold current, valid comprehensive conscious sedation or deep sedation/general anesthesia permits.
- (b) The Anesthesia Consultants shall be:
 - 1. A periodontist;
 - 2. A pediatric dentist;
 - 3. A general dentist; and
 - 4. Two (2) oral and maxillofacial surgeons.
- (c) The Anesthesia Consultants shall advise the Board of Dentistry regarding the continuing education courses, to be approved by the Board, to satisfy the requirements in subpart (6) (a) 1. (ii), item (6) (a) 2. (i) (II) and subparagraph (8) (b).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-112, 63-5-115, 63-5-117, 63-5-122, and 63-5-124. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 18, 2003; effective May 4, 2003. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed July 10, 2006; effective September 23, 2006. Amendment filed September 25, 2008; effective December 9, 2008. Amendments filed October 22, 2010; effective January 20, 2011.

0460-02-.08 LICENSURE RENEWAL. All licensed dentists must renew their licenses to be able to legally continue in practice. Licensure renewal is governed by the following:

- (1) Renewal application
 - (a) The due date for licensure renewal is the last day of the month in which a licensee's birthday falls pursuant to the Division of Health Related Boards "birthdate renewal system" contained on the renewal certificate as the expiration date.
 - (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

**RULES
OF
TENNESSEE BOARD OF DENTISTRY**

**CHAPTER 0460-03
RULES GOVERNING THE PRACTICE OF DENTAL HYGIENISTS**

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0460-03-.01 LICENSURE PROCESS. To practice as a dental hygienist in Tennessee a person must possess a lawfully issued license from the Board. The process for obtaining a license is as follows:

- (1) An applicant shall obtain a Board application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously at least sixty (60) days prior to the next scheduled Board meeting.
- (2) An applicant shall cause to be submitted directly, from a dental hygiene school, college or university approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association, to the Board Administrative Office, a certificate of graduation containing the institutions Official Seal and which shows the following:
 - (a) The applicant's transcript; and
 - (b) The degree and diploma conferred, or a letter from the dean of the educational institution attesting to the applicant's eligibility for the degree and diploma if the last term of dental hygiene school has not been completed at the time of application. However, no license shall be issued until official notification is received in the Board Administrative Office that the degree and diploma have been conferred.
- (3) An applicant shall submit:
 - (a) proof of having attained at least eighteen (18) years of age; and
 - (b) a signed "passport" style photograph taken within the preceding twelve (12) months.
- (4) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from dental professionals on the signator's letterhead.
- (5) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.

(Rule 0460-03-.01, continued)

- (6) An applicant shall submit the licensure application fee and state regulatory fee as provided in rules 0460-01-.02 (2).
- (7) An applicant shall cause to be submitted a certificate of successful completion of the examinations for licensure as governed by rule 0460-03-.05.
- (8) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other State or the discipline of licensure in any state.
 - (c) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (d) Failure of any dental or dental hygiene licensure examination.
- (9) An 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.
- (10) Failure to make application for licensure within ninety (90) days after a person has successfully completed all requirements for licensure may result in denial of any subsequently filed application unless good cause is shown for failure to do so.
- ~~(11) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board approved training organization.~~
- (11) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (12) If an applicant has ever held a license to practice in any other state or Canada, the applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each such licensing board which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive.
- (13) Application reviews and licensure decisions required by this rule shall be governed by rule 0460-01-.04.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-105(3), 63-5-105(4), 63-5-105(7), 63-5-107, 63-5-107(a), 63-5-107(c), 63-5-111, 63-5-111(a), 63-5-111(b)(2), 63-5-114, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed March 17, 2006; effective May 31, 2006.

(Rule 0460-03-.02, continued)

0460-03-.02 CRITERIA APPROVAL LICENSURE PROCESS (RECIPROCITY). Dental hygienists who are licensed in other states may obtain a license to practice in Tennessee by the following process:

- (1) An applicant shall obtain a Board application form from the Board's Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board's Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application.
- (2) An applicant shall cause to be submitted directly, from a dental hygiene school, college or university approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association, to the Board Administrative Office, a certificate of graduation containing the institutions official seal and which shows the following:
 - (a) The applicant's transcript; and
 - (b) The degree and diploma conferred.
- (3) An applicant shall cause to be submitted directly from the American Dental Association, to the Board Administrative Office, proof of successful completion of the National Board examination if the person graduated from a dental hygiene college, school or university after 1972.
- (4) An applicant shall submit:
 - (a) proof of having attained at least eighteen (18) years of age; and
 - (b) a signed "passport" style photograph taken within the preceding twelve (12) months.
- (5) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character, standing and ability from dentists on the signator's letterhead.
- (6) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.
- (7) An applicant shall submit the licensure application fee and state regulatory fee as provided in rules 0460-01-.02 (2). Also, if licensure is granted, the new licensee must submit the criteria approval licensure fee provided in Rule 0460-01-.02 (2) before a license will be issued.
- (8) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any state.
 - (c) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (d) Failure of any dental or dental hygiene licensure examination.

(Rule 0460-03-.02, continued)

- (9) An 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.
- ~~(10) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board-approved training organization.~~
- (10) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (11) The applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each licensing board of each State in which licensure is or was ever held which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive. An applicant must possess an active, current license which is in good standing in at least one other state.
- (12) An applicant must submit a personal or professional resume on a form provided by the Board.
- (13) An applicant must submit evidence satisfactory to the Board of all the following:
- (a) Active, licensed practice of dental hygiene in a private office setting, or in post-graduate dental hygiene study or in service as a dental hygiene faculty member for three (3) of the five (5) years immediately preceding application. Temporary absences from employment during the three (3) year period may under individual circumstances not be considered as a disqualifying factor at the discretion of the Board.
 - (b) If requested, ability to provide patient care on a continuing basis.
- (14) Unless an applicant subsequently retakes and passes a failed examination, an applicant must never have failed any Board-approved examination as provided in rule 0460-03-.05 to be eligible for licensure under the criteria approval process described in this rule.
- (15) Application review and licensure decisions required by this rule shall be governed by Rule 0460-01-.04.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-111, 63-5-114, and 63-5-124.

Administrative History: Original rule certified June 7, 1974. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed July 21, 2004; effective October 4, 2004. Amendment filed August 23, 2005; effective November 6, 2005. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed August 4, 2009; effective November 2, 2009.

0460-03-.03 EDUCATIONAL LICENSURE PROCESS. A dental hygienist licensed in another state may obtain a license to practice in Tennessee under the auspices of a dental or dental hygiene educational institution. This type of license limits only practice location and not services allowed to be performed. The practice location for dental hygienists who have this type of licensure is limited to programs offered by the

(Rule 0460-03-.03, continued)

educational institution and does not authorize practice outside the institution. The process for obtaining a limited educational license is as follows:

- (1) An applicant shall obtain a Board application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
- (2) An applicant shall request that a transcript from a dental hygiene school, college or university be sent directly from the institution to the Board Administrative Office. The transcript must show that the degree was conferred and carry the Official Seal of the institution.
- (3) An applicant shall submit:
 - (a) proof of having attained at least eighteen (18) years of age; and
 - (b) a signed "passport" style photograph taken within the preceding twelve (12) months.
- (4) An applicant shall submit evidence of good moral character and competence. Such evidence shall include at least two (2) letters attesting to the applicant's character and ability from licensed dentists on the signator's letterhead.
- (5) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.
- (6) An applicant shall submit the licensure application fee and state regulatory fees as provided in rules 0460-01-.02 (2). Also, if licensure is granted, the new licensee must submit the educational licensure fee provided in Rule 0460-01-.02 (2) before a license will be issued.
- ~~(7) An applicant shall submit evidence of current training in cardiopulmonary resuscitation issued by a Board approved training organization.~~
- (7) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a Board approved training organization. The course must be conducted in person and include a skills examination on a manikin with a certified instructor.
- (8) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of licensure in any state.
 - (c) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law.
 - (d) Failure of any professional licensure examination.

(Rule 0460-03-.03, continued)

- (9) An 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.
- (10) An applicant shall submit or cause to be submitted the equivalent of Tennessee Certificate of Endorsement from the licensing board(s) of every state in which the applicant has ever been licensed which indicates the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive. An applicant must possess an active license in good standing in at least one (1) state. That license must have been active for at least one (1) year prior to application.
- (11) The dean or director of the dental or dental hygiene educational institution at which the applicant is to be employed shall submit on behalf of the applicant the following:
 - (a) A letter of recommend for educational licensure; and
 - (b) a copy of the contract employing the applicant in a faculty position at the institution.
- (12) The dean or director of the educational institution shall immediately notify the Board in writing of the termination of any licensee's employment and the reasons therefore delivered to the Board Administrative Office. Such notification terminates the licensee's authority to practice in Tennessee.
- (13) Any person holding an educational license is subject to all disciplinary provisions of the Tennessee Dental Practice Act.
- (14) Application review and licensure decisions shall be required by this rule governed by rule 0460-01-.04.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-110, 63-5-111, 63-5-114, and 63-5-124.

Administrative History: Original rule certified June 7, 1974. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed March 17, 2006; effective May 31, 2006.

0460-03-.04 LICENSURE EXEMPTION PROCESS. Any person who, pursuant to T.C.A. §63-5-109, may be eligible to practice in Tennessee without a Tennessee license or with a Board issued exemption from licensure may practice or secure an exemption upon compliance with any of the following which apply to the person's circumstances:

- (1) Dentists licensed in Tennessee who intend to call into Tennessee, a dental hygienist licensed in another state for consultative or operative purposes, must obtain prior or advance approval by submitting a letter of request to the Board Administrative Office. In emergency situations, telephone requests for prior approval may be utilized.
- (2) The director of any special project not affiliated with a state supported institution or public health agency who intends to employ dental hygienists licensed in other states must obtain approval of the special project by submitting a letter of request to the Board Administrative Office which sets forth all particulars of the special project. Dental hygienists employed in the approved special projects may practice only until the next Board-approved examination as provided in rule 0460-03-.05 (1) (a), or their licensure by criteria approval, whichever comes first. However, dental hygienists employed in such projects who are under the sponsorship of a dentist licensed in Tennessee and are under the auspices of a local dentist licensed in

(Rule 0460-03-.05, continued)

- (2) Admission to, application for and the fees required to sit for the regional examinations and the National Board examinations are governed by and must be submitted to the testing agency. Admission to, application for and the fees required to sit for any other Board-approved examination must be submitted to the Board as provided in rule 0460-01-.02, or at the Board's option, its designated exam administrator.
- (3) Passing scores on the regional and National Board examinations are determined by the testing agency. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of those examinations. Passing scores for any other Board-approved examination are determined by the Board.
- (4) Applicants must supply or furnish their own patients, instruments and materials as required by the testing agency, the Board, or the Board's designated exam administrator.
- (5) Applicants who fail to successfully complete any of the examinations may apply for reexamination.
- (6) Oral examination may be required pursuant to rule 0460-01-.04.
- (7) The Board adopts as its own, the determination made by the regional testing agencies and the National Boards of the length of time that a passing score on their respective examinations will be effective for purposes of measuring competency and fitness for dental hygiene licensure.
- (8) Applicants for licensure who have failed three (3) times the National Board or any other Board-approved examination as provided in subparagraph (1) (a) must successfully complete a remedial course of post-graduate studies at a school accredited by the American Dental Association before consideration for licensure by the Board. The applicant shall cause the program director of the post-graduate program to provide written documentation of the content of such course and certify successful completion.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-114. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed August 28, 2001; effective November 11, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed April 5, 2006; effective June 19, 2006.

0460-03-.06 NITROUS OXIDE CERTIFICATION. Licensed dental hygienists may administer and/or monitor nitrous oxide upon issuance of certification after successful completion of a Board-approved Nitrous Oxide Certification Course and in compliance with T.C.A. § 63-5-108(d) and this rule. To become certified, the licensed dental hygienist must complete and abide by the following process and rules:

- (1) Application and Qualifications for Certification
 - (a) Licensed dental hygienists in good standing with the Tennessee Board of Dentistry are eligible to take the Board-approved nitrous oxide certification course.
 - ~~(b) Licensed dental hygienists, who have successfully completed an accredited dental hygiene program which includes an ADA accredited course on nitrous oxide administration and monitoring, which is comparable to the Board-approved course, are eligible to apply directly to the Board for certification in administering and monitoring nitrous oxide without additional training.~~

(Rule 0460-03-.06, continued)

(b) Licensed dental hygienists, who have successfully completed a comparable dental hygiene training program on nitrous oxide administration and monitoring in another state, which is comparable to the Board-approved course, are eligible to apply directly to the Board for certification in administering and monitoring nitrous oxide without additional training, provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board. If it is determined that the course is not equivalent, the licensed dental hygienist will be required to comply with the provisions of subparagraph (1)(a) before certification can be issued.

(2) Monitoring Certification.

- (a) A licensed dental hygienist who, on the effective date of this rule, possesses a certificate to monitor shall not begin to administer nitrous oxide unless and until the licensed dental hygienist has completed a Board-approved administration and monitoring certification course and has received certification issued by the Board.
- (b) Licensed dental hygienists with a monitoring certificate shall only monitor nitrous oxide sedation for patients of the employer dentist in accordance with the definition for monitoring nitrous oxide, as provided in Rule 0460-2-.07.
- (c) Licensed dental hygienists with certification in monitoring of nitrous oxide shall prominently display, at their of employment, the current renewal certificate, which is received upon licensure and renewal.
- (d) Certification in monitoring nitrous oxide is only valid as long as the licensed dental hygienist has a current license to practice dental hygiene. If the license expires or is retired, the certification is also considered expired or retired and the dental hygienist may not monitor nitrous oxide until the license is reinstated or reactivated.

(3) Administration and Monitoring Certification.

- (a) A licensed dental hygienist, with or without monitoring certification, must apply for and complete a Board-approved certification course in the administration and monitoring of nitrous oxide and obtain their certification, issued by the Board, before he/she can administer nitrous oxide and monitor any patient.
- (b) Certification in administration and monitoring of nitrous oxide is only valid as long as the licensed dental hygienist has a current license to practice dental hygiene. If the license expires or is retired, the certification is also considered expired or retired and the dental hygienist may not administer and/or monitor nitrous oxide until the license is reinstated or reactivated.
- (c) Licensed dental hygienists who possess a certification in administration and monitoring of nitrous oxide shall prominently display, at their place of employment, the current renewal certificate, which is received upon licensure and renewal.
- (d) Duly licensed dental hygienists with nitrous oxide administration certification may administer nitrous oxide only under the direct supervision of a licensed dentist.
- (e) A licensed dental hygienist may not administer and monitor nitrous oxide to more than one (1) patient at a time and must physically remain in the operatory at all times with the patient.

(Rule 0460-03-.09, continued)

- (d) Issuance of prescription medications or medications not authorized by Rule 0460-03-.09 (1), or work authorizations;
 - (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108 or Rule 0460-03-.09 (1);
 - (f) Approving the final occlusion;
 - (g) Placement of sutures;
 - (h) Administration of conscious sedation or general anesthesia.
 - (i) Administration of local anesthesia on patients without certification as provided in Rule 0460-03-.12.
 - (j) Administration or monitoring of nitrous oxide without certification as provided in Rule 0460-03-.06;
 - (k) Use of a high-speed handpiece intraorally;
- (8) In no event shall a licensed dental hygienist perform dental services inconsistent with T.C.A. § 63-5-108. Licensed dental hygienists who perform procedures not delegable pursuant to this rule or procedures specifically prohibited by T.C.A. § 63-5-108 or who perform procedures without the direct supervision of a dentist, or who administer or monitor nitrous oxide without certification or who perform restorative or prosthetic functions without certification are in violation of the rules governing those procedures, and may be subject to disciplinary action pursuant to T.C.A. § 63-5-116.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-115, 63-5-116 and 63-5-124.

Administrative History: Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed September 17, 2003; effective December 1, 2003. Amendments filed August 3, 2005; effective October 17, 2005. Amendments filed October 12, 2007; effective December 26, 2007. Amendment filed September 25, 2008; effective December 9, 2008. Amendments filed October 22, 2010; effective January 20, 2011.

0460-03-.10 RESTORATIVE AND PROSTHETIC CERTIFICATIONS.

- (1) Dental hygienists who have a minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a licensed dental hygienist are eligible for admission to Board-approved certification courses in restorative and/or prosthetic functions. A licensed dental hygienist must complete a Board-approved certification course in restorative or prosthetic functions and obtain the appropriate certification, issued by the Board, before he/she can perform restorative or prosthetic functions on any patient.
- (2) Certification in restorative or prosthetic functions is only valid as long as the licensed dental hygienist has a current license to practice dental hygiene. If the license expires or is retired, the certification is also considered expired or retired and the dental hygienist may not perform restorative or prosthetic functions until the license is reinstated or reactivated.
- (3) Licensed dental hygienists who possess a certification in restorative or prosthetic functions shall prominently display their current renewal certificate at their place of employment.
- (4) Licensed dental hygienists with certification in restorative or prosthetic functions may perform restorations or prosthetic functions only under the direct supervision and full responsibility of a licensed dentist.

(Rule 0460-03-.10, continued)

(5) Prohibited Procedures – The following procedures are prohibited for all dental hygienists, including those who have certification in restorative or prosthetic functions:

(a) Restorative Functions

1. Diagnosing need for restorations;
2. Preparation/Cutting of the tooth or soft tissue;
3. Modifying existing structure;
4. Removal of caries, bases or liners; and
5. Use of high-speed handpieces intraorally.

(b) Prosthetic Functions

1. Diagnosing need for any prosthetic appliance;
2. Establishing vertical dimension of occlusion and interocclusal records;
3. Delivering and/or adjusting appliance; and
4. Use of high-speed handpieces intraorally.

(6) Licensed dental hygienists, who have successfully completed a comparable hygienist training program in another state in restorative or prosthetic functions, are eligible to apply directly to the Board for a restorative or prosthetic functions certificate without additional training, provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board. If it is determined that the course is not equivalent, the licensed dental hygienist will be required to comply with the provisions of paragraph (1) before certification can be issued.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115. **Administrative History:** Original rule filed August 3, 2005; effective October 17, 2005. Amendment filed October 12, 2007; effective December 26, 2007.

0460-03-.11 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

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

(a) Any individual licensed to practice as a dental hygienist in this state or any other state who has not been disciplined by any licensure board may have their license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. § 63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. § 63-1-201, at a specified site or setting by doing the following:

1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and

(Rule 0460-03-.11, continued)

dental hygienist in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.

- (c) A dental hygienist or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
 - (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice as dental hygienists only when it has complied with the provisions of T.C.A. §§ 63-6-701 through 707 and rule 1200-10-1-.12 of the Division of Health Related Boards.
- (3) Application review and licensure decisions for these types of licensure shall be governed by rule 0460-01-.04.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-201, 63-5-105, 63-5-111, 63-5-114, 63-5-134, and 63-6-701 through 63-6-707. **Administrative History:** Original rule filed December 16, 2005; effective March 1, 2006. Amendment filed August 4, 2009; effective November 2, 2009.

0460-03-.12 ADMINISTRATION OF LOCAL ANESTHESIA CERTIFICATION. A licensed dental hygienist in Tennessee must obtain certification to administer local anesthesia before he/she can administer local anesthesia on any patient.

- (1) Qualifications for Certification – One (1) of the following qualifications must be completed:
 - (a) Be a graduate of an ADA Commission on Dental Accreditation approved dental hygiene program which teaches the administration of local anesthesia to clinical competency; or
 - (b) Complete a Board-approved certification course in administration of local anesthesia; or
 - ~~(c) Have completed a certification course in another state that the Board determines is equivalent to the Board-approved course. The course must submit the curriculum, including the number of hours and injections required in the course, and a letter attesting that the course was taught to clinical competency to the Board's Administrative Office for review by the Board. If the Board determines the course is not equivalent, the licensed dental hygienist will be required to comply with the provisions of subparagraphs (a) or (b) before certification can be issued.~~
 - (c) Have completed a comparable dental hygiene training program on administration of local anesthesia in another state, which is comparable to the Board-approved course. The licensed dental hygienist is eligible to apply directly to the Board for certification in administration of local anesthesia without additional training, provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The course provider must submit the curriculum, including the number of hours and injections required in the course, and a letter attesting that the course was taught to clinical competency to the Board's Administrative Office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board. If it is determined that the course is not

(Rule 0460-03-.12, continued)

equivalent, the licensed dental hygienist will be required to comply with the provisions of subparagraphs (a) or (b) before certification can be issued.

- (2) Procedures for Certification – After successful completion of a Board-approved certification course, an ADA Commission on Dental Accreditation dental hygiene program which included instruction in the administration of local anesthesia or a certification course from another state that is equivalent to the Board-approved course, an applicant shall:
 - (a) submit a completed application on a form provided by the Board Administrative Office; and
 - (b) submit the Local Anesthesia Certification Fee required by 0460-01-.02; and
 - (c) cause verification of successful completion of the course attesting that the course was taught to demonstrate clinical competency to be sent directly from the school to the Board Administrative Office. If the course was Board-approved, a temporary permit will be issued pending verification of completion of the externship.
- (3) Conditions of Certification
 - (a) Certification in administration of local anesthesia is valid only when the dental hygienist has a current license to practice dental hygiene. If the license expires or is retired, the certification is also considered expired or retired and the dental hygienist may not perform administration of local anesthesia until the license is reinstated or reactivated.
 - (b) A licensed dental hygienist with certification to administer local anesthesia shall prominently display, at the place of employment, the current renewal certificate, which is received upon licensure and renewal.
 - (c) A licensed dental hygienist with certification to administer local anesthesia shall administer local anesthesia only under the direct supervision of a licensed dentist who
 1. examines the patient before prescribing the procedures to be performed; and
 2. is physically present at the same office location when the local anesthesia is administered; and
 3. designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed; and
 4. examines the patient upon completion of the procedures.
 - (d) Following the administration of local anesthesia by a licensed dental hygienist the following information shall be documented in the patient record:
 1. date and time of administration;
 2. identity of individual administering;
 3. type of anesthesia administered;
 4. dosage/amount administered;
 5. location/site of administration; and
 6. any adverse reaction.

(Rule 0460-03-.12, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116. **Administrative History:** Original rule filed October 12, 2007; effective December 26, 2007.

**RULES
OF
TENNESSEE STATE BOARD OF DENTISTRY**

**CHAPTER 0460-04
RULES GOVERNING THE PRACTICE OF DENTAL ASSISTANTS**

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0460-04-01 LEVELS OF PRACTICE. It is the intent of the Board to authorize two distinct levels of practice for dental assistants in dental offices in Tennessee.

(1) Practical Dental Assistants

(a) Definition - A practical dental assistant is an auxiliary employee of a licensed dentist(s) who is receiving practical chair side dental assisting training from a licensed dentist(s) or is a dental assistant student in an educational institution accredited by the Commission on Dental Accreditation of the American Dental Association.

(b) Scope of Practice

1. A practical dental assistant must be under the direct supervision of a licensed dentist.
2. It is the intent of this rule that practical dental assistants not invade the practice procedures only allowed to be assigned or delegated to registered dental assistants or licensed dental hygienists.

(2) Registered Dental Assistant

(a) Definition - A dental assistant who has received a registration from the Board pursuant to rule 0460-04-.02.

(b) Scope of Practice - A registered dental assistant may perform those additional procedures for which they have received Board certification as provided by Rule 0460-04-.08 under the direct supervision of a dentist.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-105(4), 63-5-105(7), 63-5-108, 63-5-108(c), 63-5-115, 63-5-116, 63-5-117, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed October 9, 1997; effective December 23, 1997. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed October 12, 2007; effective December 26, 2007.

0460-04-.02 REGISTRATION PROCESS. To practice as a dental assistant beyond the scope of a practical dental assistant a person must possess a lawfully issued registration from the Board. The process for obtaining a registration is as follows:

(Rule 0460-04-.02, continued)

- (1) An applicant shall obtain a Board application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a registration application and that all documentation be filed simultaneously.
- (2) An applicant shall submit:
 - (a) proof of having graduated from a high school or submit proof of possession of a general educational development (g.e.d.) certificate; and
 - (b) proof of having attained at least eighteen (18) years of age; and
 - (c) a signed "passport" style photograph taken within the preceding twelve (12) months.
- (3) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character from dental professionals on the signator's letterhead.
- (4) An applicant shall submit proof of United States or Canadian citizenship or evidence of being legally entitled to live in the United States. Such evidence may include copies of birth certificates, naturalization papers, or current visa status.
- (5) An applicant shall submit the registration application fee and state regulatory fee provided in rule 0460-01-.02 (3).
- (6) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of registration application by any other state or the discipline of registration in any state.
 - (c) Failure of any professional licensure examinations.
- (7) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's registration application materials, the result of a criminal background check.
- (8) If an applicant has ever held a registration of any kind to practice dental assistance in any other state or Canada, the applicant shall submit or cause to be submitted the equivalent of the Tennessee Certificate of Endorsement from each such licensing board which indicates the applicant either holds a current active registration which is in good standing, or holds a registration which is currently inactive and whether it was in good standing at the time it became inactive.
- ~~(9) An applicant must submit or cause to be submitted, documentation necessary to show proof of current Cardio-Pulmonary-Resuscitation (CPR) certification.~~
- (9) An applicant shall submit evidence of current training in cardiopulmonary resuscitation (CPR) which is defined as successful completion of a BLS for Healthcare Providers, or CPR/AED for Professional Rescuers, or an equivalent course, which provides training for healthcare professionals in CPR and the use of an AED by a board approved training organization. The

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(Rule 0460-04-.02, continued)

course must be conducted in person and include a skills examination on a manikin with a certified instructor.

- (10) Application review and registration decisions required by this rule shall be governed by rule 0460-01-.04.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-111, 63-5-115, and 63-5-124.
Administrative History: Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed March 14, 2001; effective May 28, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendments filed March 17, 2006; effective May 31, 2006. Amendment filed October 12, 2007; effective December 26, 2007.

0460-04-.03 REPEALED.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-111, and 63-5-115. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed December 16, 2005; effective March 1, 2006. Repeal filed October 12, 2007; effective December 26, 2007.

0460-04-.04 CORONAL POLISHING CERTIFICATION. Dental assistants who, pursuant to this rule and T.C.A. § 63-5-108 (d), receive certification to perform coronal polishing may only do so under the restrictions contained in this rule.

- (1) Definition - Coronal Polishing shall mean the polishing of the enamel and restorations on the clinical crown of human teeth by utilizing a combination of a polishing agent and a slow speed handpiece, a prophy angle, a rubber cup, or any home care cleaning device.
- (2) Qualifications – An applicant for a coronal polishing certification must be registered as a dental assistant in Tennessee prior to applying for admission to an education course in coronal polishing. The sequence of the certification process is as follows:
 - (a) An applicant must apply for and successfully complete an educational course, as provided in this rule, as a prerequisite for certification; or
 - (b) An applicant who has successfully completed a coronal polishing course in another state which was approved by the board in the other state, which the Board consultant has determined as equivalent to the Board-approved course in Tennessee, is eligible to apply directly to the Board for certification. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from that state. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office; or
 - (c) Applicants who have successfully completed an ADA accredited dental assisting program which included coronal polishing in the curriculum are eligible to apply for the certification upon completion of the program. Within thirty (30) days of an applicant's completion of the program, the program director/instructor must submit a letter to the Board administrator verifying that coronal polishing was included in the curriculum and a written and clinical examination was passed by the applicant. Upon receipt of the letter from the program director/instructor and the application and fees, the certification for coronal polishing will be issued.

(Rule 0460-04-.07, continued)

- (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (2) Any registrant whose registration has been retired may reenter active practice by doing the following:
 - (a) Submit a written request for reactivation to the Board Administrative Office; and
 - (b) Pay the registration renewal fee and state regulatory fee as provided in rule 0460-01-.02 (3). If retirement was pursuant to rule 0460-04-.06 (5) and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the late renewal fee and past due renewal and state regulatory fees as provided in rule 0460-01-.02 (3).
 - (c) If requested, after review by the Board, a designated Board member, or the Board consultant, appear before the Board, a designated Board member, or the Board consultant, for an interview regarding continued competence in the event of retirement in excess of two (2) years.
 - (d) Comply with the continuing education provisions of rule 0460-01-.05 (6) applicable to reactivation of retired registrations.
 - (3) Application review and decisions required by this rule shall be governed by rule 0460-01-.04.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-117, and 63-5-129. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed August 4, 2009; effective November 2, 2009.

0460-04-.08 SCOPE OF PRACTICE.

- (1) A lawfully licensed and duly registered dentist may delegate to dental assistants those procedures for which they have received adequate training and for which the dentist exercises direct supervision and full responsibility, except as follows:
 - (a) Those procedures which require professional judgment and skill of a dentist as defined in the Dental Practice Act or rules of the Board.
 - (b) Those clinical procedures which are primarily concerned with the practice of dentistry or dental hygiene and which are allocated by the Dental Practice Act or Rules of the Tennessee Board of Dentistry specifically and solely to licensed dentists and/or licensed dental hygienists.
- (2) Registered dental assistants, with additional Board-approved training, may, under the direct supervision of a licensed dentist perform the following procedures:
 - (a) Coronal polishing, pursuant to Rule 0460-04-.04; and
 - (b) Monitoring nitrous oxide, pursuant to Rule 0460-04-.05; and
 - (c) Application of sealants, pursuant to Rule 0460-04-.09.
 - (d) Performance of expanded restorative functions, pursuant to Rule 0460-04-.10.
 - (e) Performance of expanded prosthetic functions, pursuant to Rule 0460-04-.10.

(Rule 0460-04-.08, continued)

(f) Exposure of dental radiographs, pursuant to Rule 0460-04-.11.

~~(3) Delegable or Assignable Procedures — In addition to those duties of the registered dental assistant which are commonly recognizable by the dental profession for safe performance, pursuant to T.C.A. § 63-5-108 a dental assistant may perform the following duties which are assigned or delegated to the dental assistant by the employer dentist:~~

(3) Delegable or Assignable Procedures - In addition to those duties of the practical dental assistant or registered dental assistant which are commonly recognizable by the dental profession for safe performance, pursuant to T.C.A. §63-5-108, a practical dental assistant or registered dental assistant may perform the following duties which are assigned or delegated by the employer/supervising dentist:

- (a) The processing of radiographs, including digital, of the mouth, gums, jaws, teeth or any portion thereof for dental diagnosis.
- (b) The application of topical fluorides.
- (c) The instruction of patients in dietary principles.
- (d) The taking and recording of a patient's blood pressure, pulse, temperature, and medical history, and charting of oral conditions.
- (e) The maintenance of instrument and operator infection control.
- (f) The preparation of instrument trays.
- (g) The placement and removal of matrices for restoration.
- (h) The removal of cement from restorations and bands.
- (i) The removal of sutures and staples.
- (j) The fabrication, placement and removal of temporary restorations.
- (k) The placement and removal of rubber dam.
- (l) The placement and removal of socket dressings.
- (m) The placement and removal of periodontal dressings.
- (n) The taking of dental plaque smears.
- (o) The taking of alginate impressions for any purpose other than permanent restorations.
- (p) The removal of ligature and arch wires.
- (q) Bending, selecting and pre-sizing arch wires and placing arch wires after final adjustment and approval by the dentist.
- (r) The selection, prefitting, cementation, curing, and removing of orthodontic bands or brackets.
- (s) Placement and removal of pre-treatment separators.
- (t) Removal of loose or broken bands or brackets.

(Rule 0460-04-.08, continued)

- (u) Placement of springs on wires.
 - (v) Placement of hooks on brackets.
 - (w) Placement of chain elastics on brackets.
 - (x) Ligation of arch wires to brackets.
 - (y) Packing and removing retraction cord, with or without vasoactive chemicals, for restorative dental procedures.
 - (z) Removal of cement excess from supragingival surface of teeth by hand instruments only.
 - (aa) The placement of amalgam in prepared cavities for condensation by the dentist.
 - (bb) The application of topical anesthetics.
 - (cc) The application of desensitizing agents.
 - (dd) Placement of cavity bases and liners.
 - (ee) Application of tooth conditioners for bonding.
 - (ff) Selecting and pre-fitting of stainless steel crowns or other pre-formed crowns for insertion by the dentist.
 - (gg) The taking of oral cytologic smears.
 - (hh) Performing pulp testing.
 - (ii) Packing of pulpotomy paste.
 - (jj) Drying canals with absorbent paper points.
 - (kk) Demonstration of oral hygiene procedures and oral health care regimen
 - (ll) Calling in prescriptions to the pharmacist as instructed by the employer/dentist.
 - (mm) Fitting, adjusting and cementation of correctional appliances.
 - (nn) Wound care as directed.
 - (oo) Irrigating extraction site.
 - (pp) Placement of exposure chains and attachments.
 - (qq) Other duties specifically approved by the Board at a regularly scheduled meeting of the Board.
- (4) Prohibited Procedures—In addition to the duties defined as the practice of dentistry or dental hygiene by T.C.A. § 63-5-108, dental assistants are not permitted to perform the following:
- (a) Examination, diagnosis and treatment planning;

(Rule 0460-04-.08, continued)

- (b) Surgical or cutting procedures on hard or soft tissue, including laser, air abrasion or micro-abrasion procedures, including curettage or root planing;
 - (c) Fitting, adjusting, and placement of prosthodontics appliances;
 - (d) Issuance of prescription medications or medications not authorized by T.C.A. § 63-5-108 (c) or Rule 0460-04-.08 (3), or work authorizations;
 - (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108(c) or Rule 0460-04-.08 (3);
 - (f) Approving the final occlusion;
 - (g) Placement of sutures;
 - (h) Administration of local anesthesia, nitrous oxide, conscious sedation, or general anesthesia;
 - (i) Monitoring of nitrous oxide without certification as provided in Rule 0460-04-.05 and 0460-04-.08 (2);
 - (j) Coronal polishing without certification as provided in Rule 0460-04-.04 and 0460-04-.08 (2);
 - (k) Application of sealants without certification as provided by Rule 0460-04-.09 and 0460-04-.08 (2);
 - (l) Use of a high-speed handpiece intraorally;
 - (m) Utilization of laser equipment and technology in the course of the performance of their duties unless specifically authorized by T.C.A. § 63-5-108 (c) or Rule 0460-04-.08 (3). Only dentists licensed by the Tennessee Board of Dentistry shall be authorized to perform procedures involving laser technology.
 - (n) The exposure of radiographs without certification as provided by Rule 0460-04-.11 and Rule 0460-04-.08 (2).
 - (o) Expanded restorative or prosthetic functions without certification as provided by Rule 0460-04-.10 and Rule 0460-04-.08 (2).
- (5) Dental assistants who perform procedures not delegable pursuant to this rule, or who perform procedures specifically prohibited by T.C.A. § 63-5-108, or who perform procedures without the direct supervision of a dentist, or who perform coronal polishing, application of sealants or nitrous oxide monitoring without the applicable certification or in violation of the rules governing those procedures, may be subject to disciplinary action pursuant to T.C.A. § 63-5-116 (b).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116. **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed September 17, 2003; effective December 1, 2003. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed October 12, 2007; effective December 26, 2007. Amendment filed September 25, 2008; effective December 9, 2008.

0460-04-.09 SEALANT APPLICATION CERTIFICATION. A registered dental assistant with this certification may only practice sealant application under the direct supervision of a licensed dentist.

(Rule 0460-04-.09, continued)

- (1) Definition - Sealant application shall mean the application of an organic polymer to the enamel surfaces of teeth.
- (2) Qualifications for Certification
 - (a) Registered dental assistants in good standing with the Tennessee Board of Dentistry, pursuant to Rule 0460-04-.02, are eligible to take a Board-approved sealant application certification course.
 - (b) Individuals enrolled in either an ADA-accredited or Board-approved dental assisting program, which has elected to include in its curriculum the Board-approved sealant application certification course, will be qualified to perform the application of sealants upon issuance of the certification. All such programs shall adhere to the requirements of Rule 0460-05-.03 (3).
 - (c) Registered dental assistants who have successfully completed a comparable assistant training program in another state in the application of sealants are eligible to apply directly to the Board of Dentistry for a sealant application certificate without additional training, provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board.
 - (d) After successful completion of a Board-approved certification course, if required, and receipt of proper notification from the course/instructor, an applicant will be issued an initial approval letter. The applicant's certification will be ratified at the next scheduled meeting of the Board.
- (3) Supervision
 - (a) Sealant application may only be performed under the direct supervision of a Tennessee licensed dentist.
 - (b) The dentist must examine the patient immediately before and after sealant application to determine the need for, and evaluate the results of, sealant application.
- (4) Retention of Certification - Certification in sealant application is only valid as long as the registered dental assistant has a current registration to practice registered dental assisting. If the registration expires or is retired, the certification is also considered expired or retired, and the dental assistant may not apply sealants until the registration is reinstated or reactivated.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, 63-5-115, and 63-5-116. **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 26, 1980; effective December 1, 1980. Repeal filed December 11, 1991; effective January 25, 1992. New rule filed September 17, 2003; effective December 1, 2003. Amendment filed October 12, 2007; effective December 26, 2007.

0460-04-.10 RESTORATIVE AND PROSTHETIC CERTIFICATIONS.

- (1) Dental assistants who have a minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a dental assistant are eligible for admission to a Board-approved certification course in restorative and/or prosthetic functions. A registered dental assistant must apply for and complete a Board-approved certification course in restorative or prosthetic functions and obtain the appropriate certification, issued by

(Rule 0460-04-.10, continued)

the Board, before he/she can perform expanded restorative or prosthetic functions on any patient.

- (2) Certification in restorative or prosthetic functions is only valid as long as the registered dental assistant has a current authorization to practice as a registered dental assistant. If the authorization expires or is retired, the certification is also considered expired or retired and the dental assistant may not perform restorative or prosthetic functions until the authorization to practice is reinstated or reactivated.
- (3) Registered dental assistants who possess a certification in restorative or prosthetic functions shall prominently display their current renewal certificate at their place of employment.
- (4) Registered dental assistants with certification in restorative or prosthetic functions may perform restorations or prosthetic functions only under the direct supervision and full responsibility of a licensed dentist.
- (5) Prohibited Procedures – The following procedures are prohibited for all dental assistants, including those who have certification in restorative or prosthetic functions:
 - (a) Restorative Functions
 - 1. Diagnosing of need for restorations;
 - 2. Preparation/Cutting of the tooth or soft tissue;
 - 3. Modifying existing structure;
 - 4. Removal of caries, bases and liners; and
 - 5. Use of high-speed handpieces intraorally.
 - (b) Prosthetic Functions
 - 1. Diagnosing need for any prosthetic appliance;
 - 2. Establishing vertical dimension of occlusion and interocclusal records;
 - 3. Delivering and/or adjusting appliance; and
 - 4. Use of high-speed handpieces intraorally.

~~(6) Registered dental assistants, who have also successfully completed a comparable assistant training program in another state in expanded prosthetic or restorative functions, are eligible to apply directly to the Board for an expanded functions certificate without additional training.~~

(6) Registered dental assistants, who have also successfully completed a comparable assistant training program in another state in expanded restorative or prosthetic functions, are eligible to apply directly to the Board for an expanded functions certificate without additional training, provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board. If it is determined that the course is not equivalent, the registered dental assistant will be required to comply with the provisions of paragraph (1) before certification can be issued.

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(Rule 0460-04-.10, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115. **Administrative History:** Original rule certified June 7, 1974. Repeal filed December 11, 1991; effective January 25, 1992. Original rule filed August 3, 2005; effective October 17, 2005. Amendment filed October 12, 2007; effective December 26, 2007.

0460-04-.11 DENTAL RADIOLOGY CERTIFICATION. Registered dental assistants with this certification may expose dental radiographs under the direct supervision of a licensed dentist.

- (1) A dental assistant must be currently registered, pursuant to Rule 0460-04-.02, by the Board before attending a certification course in dental radiology and/or qualifying for certification, except as follows:
 - (a) Dental assistants who are registered, pursuant to Rule 0460-04-.02, before the original effective date of this rule shall be issued dental radiology certification without having to complete the course required in paragraph (2).
 - ~~(b) Registered dental assistants, who have successfully completed a comparable assistant training program in another state in dental radiology, are eligible to apply directly to the Board for dental radiology certification without having to complete the course required in paragraph (2).~~
 - (b) Registered dental assistants, who have successfully completed a comparable assistant training program in another state in dental radiology, are eligible to apply directly to the Board for dental radiology certification without having to complete the requirements of paragraph (2), provided the course is determined by the Board consultant to be equivalent to the Board-approved course in Tennessee. The information regarding content of the course and proof of completion must be sent directly from the course provider to the Board's administrative office. If a certification or permit was issued by the other state, verification of the certificate or permit must be received directly from the other board. If it is determined that the course is not equivalent, the registered dental assistant will be required to comply with the provisions of paragraph (2) before certification can be issued.
 - ~~(c) Certified dental assistants are eligible to apply directly to the Board for dental radiology certification without having to complete the course required in paragraph (2).~~
 - (c) Assistants who have passed the radiology portion of the certified dental assistant examination given by the Dental Assisting National Boards, Inc. (DANB) or hold a current certification from DANB as a certified dental assistant are eligible to apply directly to the Board for dental radiology certification without having to complete the course required in paragraph (2). Proof of passage of the radiology portion of the DANB exam or proof of current DANB certification must be sent directly from the DANB to the Board's administrative office.
- (2) To be eligible for certification, the registered dental assistant must successfully complete a Board-approved dental radiology training course or be currently enrolled in an ADA-accredited or Board-approved program which offers this course as part of their curriculum. Once eligible for certification, the registered dental assistant shall not expose dental radiographs until certification has been issued by the Board.
- (3) Dental radiology certification shall be added to the registration of the registered dental assistant, if the registered dental assistant has successfully completed a Board-approved certification course and notification of completion has been submitted to the Board's Administrative Office by the course director on a form provided by the Board.

(Rule 0460-04-.11, continued)

- (4) Registered dental assistants with radiology certification shall prominently display their current registration certification, which is received upon registration and renewal, at their place of employment.
- (5) Certification in dental radiology is only valid as long as the registered dental assistant has a current registration. If the registration expires or is retired, the certification is also considered expired or retired and the dental assistant may not expose dental radiographs until the registration is reinstated or reactivated.
- (6) Application review and decisions required by this rule shall be governed by 0460-01-.04.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115. **Administrative History:** Original rule certified June 7, 1974. Repeal filed December 11, 1991; effective January 25, 1992. Original rule filed October 12, 2007; effective December 26, 2007.

0460-04-.12 THROUGH 0460-04-.14 REPEALED.

Authority: T.C.A. §§ 4-5-202 and 63-5-105(7). **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980.

RULES
OF
TENNESSEE BOARD OF DENTISTRY

CHAPTER 0460-05
GENERAL RULES GOVERNING SCHOOLS, PROGRAMS AND COURSES
FOR DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS

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0460-05-.01 SCHOOLS OF DENTISTRY.

- (1) Reserved.
- (2) Reserved.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, and 63-5-108. **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Repeal filed February 12, 1996; effective April 27, 1996. New rule filed September 17, 2003; effective December 1, 2003.

0460-05-.02 SCHOOLS, PROGRAMS, AND COURSES FOR THE DENTAL HYGIENIST.

- (1) Dental Hygiene Schools.
 - (a) Reserved.
 - (b) Reserved.
- (2) Certification Course in Administration & Monitoring of Nitrous Oxide
 - (a) Application for Board Approval - The owner and/or director of a certification course in administration and monitoring of nitrous oxide shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The owner and/or director of the certification course will be notified in writing of the Board's action(s). This section shall also apply to all dental hygiene schools.
 - (b) Retention of Approval.
 - 1. The certification course, whether offered independently or as a part of the curriculum taught by a dental hygiene school, shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 - 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 - 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or

(Rule 0460-05-.02, continued)

instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the course.

4. Certificates of approval shall be issued for one (1) year and shall expire on December 31st of any given year.
- (c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
1. The certification course shall admit only those dental hygienists who are currently licensed, pursuant to Rule 0460-03-.01, .02, or .03, or are currently enrolled in an ADA-accredited dental hygiene program which offers this course as a part of its curriculum.
 2. The course shall be taught at an educational institution, defined as a school of dentistry, dental hygiene, or dental assisting, or a clinical facility approved by the Board which provides for proper patient care, including access to medication and equipment for the management of emergencies.
 3. The certification course shall be taught by a Tennessee licensed dentist or a licensed dental hygienist with administration and monitoring certification and a minimum of three (3) years clinical experience in utilizing administration of nitrous oxide and education in comprehensive pain and anxiety control. The instructor/dentist may employ and/or utilize anesthesiologists, pharmacologists, internists, and/or cardiologists who are licensed in Tennessee as instructors to assist the instructor/dentist in the teaching of the course.
 4. The clinical instructor-to-student ratio must be one (1) instructor to ten (10) students (1:10) with a class size no larger than fifty (50) students.
 5. The certification course shall consist of fourteen (14) hours of study over a two (2) day period. The course syllabus must be approved by the Board and meet the following requirements:
 - (i) Didactic - The course shall be designed and conducted to provide the student with detailed knowledge of nitrous oxide – oxygen inhalation sedation, its use in dentistry, and the health hazards and abuse potential of nitrous oxide. The didactic portion of the course shall include instruction in all of the following subject matters:
 - (I) History, philosophy, psychology of nitrous oxide-oxygen inhalation sedation;
 - (II) Definitions and descriptions of the physiological and psychological aspects of pain and anxiety;
 - (III) Description of the stages of drug induced central nervous system depression, through all levels of consciousness and unconsciousness, with special emphasis on the difference between the conscious and unconscious state;
 - (IV) Anatomy and physiology of respiration;

(Rule 0460-05-.02, continued)

- (V) Pharmacological and physiological effects of nitrous oxide, including physical properties, action, side effects, absorption, excretion, and toxicity;
 - (VI) Advantages and disadvantages of inhalation sedation with nitrous oxide;
 - (VII) Discuss and review pediatric and adult respiration;
 - (VIII) Discuss and review circulatory physiology and related anatomy for pediatric and adult patients;
 - (IX) Management of reaction to, or complications with nitrous oxide;
 - (X) Taking and reviewing a thorough health history including:
 - I. Taking and reviewing vital signs;
 - II. Evaluating implications of the use of nitrous oxide based upon the patient's health history;
 - III. Reflexes related to consciousness;
 - IV. Possible reactions to nitrous oxide; and
 - V. Instruction for post-operative care;
 - (XI) Recognition, prevention and management of complications and life-threatening situations related to nitrous oxide;
 - (XII) Description and use of inhalation sedation equipment and appropriate physiologic monitoring and administration equipment;
 - (XIII) Legal considerations of nitrous oxide use;
 - (XIV) Discussion of sexual phenomena and hallucinatory effects reported with nitrous oxide;
 - (XV) Discussion of the potential for abuse of nitrous oxide;
 - (XVI) Recommended techniques for reducing occupational exposure to nitrous oxide; and
 - (XVII) An introduction of potential health hazards of trace anesthetics and proposed techniques for elimination thereof, including, but not limited to, recommendations and guidelines from the Centers for Disease Control (CDC) or the Occupational, Health, and Safety Administration (OSHA).
- (ii) Clinical - The certification course shall afford participants with sufficient clinical experience to enable them to achieve competency. This experience must be provided under the supervision of qualified faculty, and the participants must be evaluated for competency. The clinical portion of the course shall be at least two (2) hours, including at least one (1) hour of

(Rule 0460-05-.02, continued)

demonstration by an instructor and hands on participation by students. The clinical experience shall include all significant portions of the didactic instruction including:

- (I) Patient status assessment;
 - (II) Use of various equipment in the administration and monitoring of nitrous oxide;
 - (III) Introduction of sedation to a patient;
 - (IV) Monitoring of the patient; and
 - (V) Post-operative care of the patient and provision of instruction to the patient.
- (d) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.
- (e) Upon completion of the course, students shall be evaluated by written examination. The examination shall cover the didactic portion of the course. The passing grade is set at 75%. If the student initially fails the written examination, the exam may be taken no more than two (2) additional times before the course must be retaken and the exam retaken. The examination shall be developed and administered by the course director/instructor in such a manner as to determine competency for the administration and monitoring of nitrous oxide.
- (f) The director/instructor of the certification course shall, within thirty (30) days after course completion or upon graduation from the dental hygiene school, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the Instructor/Director.
- (g) The certification course, or dental hygiene school, will issue continuing education credit hours for the course.
- (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.02 (2) (b), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.
- (3) Certification Course in Restorative Functions
- (a) Application for Board Approval – The director of a certification course in restorative functions shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The director of the certification course will be notified in writing of the Board's action(s).
 - (b) Retention of Approval.

(Rule 0460-05-.02, continued)

1. The certification course must be taught at an educational institution as defined in part (3) (c) 2. of this rule and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in directorship of the course.
 4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st every two (2) years.
- (c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
1. The certification course shall admit only those dental hygienists who are currently licensed, pursuant to Rule 0460-03-.01, .02, or .03, and who submit proof of a minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a dental hygienist.
 2. The course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry.
 3. The certification course shall be taught by one (1) or more Tennessee licensed dentists who are faculty members at an accredited school of dentistry.
 4. The clinical instructor-to-student ratio must be one (1) instructor to eight (8) students (1:8).
 5. The certification course shall consist of a minimum of ninety-six (96) hours of study over a three (3) week period.
 6. The course syllabus shall be approved by the Board and the course shall be designed and conducted to provide the student with detailed knowledge of restorative functions. The clinical experience must be provided under the supervision of qualified faculty, and the students must be evaluated for competency. The didactic and clinical portions of the course shall include instruction in all of the following subject matters:
 - (i) First Week – The first (1st) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination is to be administered at the end of the week regarding:
 - (I) Dental morphology and occlusion;
 - (II) Dental materials, hazardous materials and product safety;
 - I. Amalgam;

(Rule 0460-05-.02, continued)

- II. Composite;
 - III. Glass Ionomer; and
 - IV. Mercury.
- (III) Principles of cavity preparation on anterior and posterior class I, II, III, IV, and V teeth;
- (IV) Instrumentation for all restorations;
- (V) Liners and bases, types and placement;
- (ii) Second Week – The second (2nd) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination regarding items (I) through (V) is to be administered at the end of the week. No high-speed handpiece is to be used in the course, only a slow-speed handpiece:
- (I) Isolation and rubber dam placement;
 - (II) Caries;
 - (III) Selection and placement of matrix retainers;
 - (IV) Laboratory on insertion, packing and carving (finishing) of amalgam;
 - (V) Insertion, packing and carving (finishing) of amalgam;
- (iii) Third Week – The third (3rd) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination regarding items (I) through (III) is to be administered at the end of the week. No high-speed handpiece is to be used in the course, only a slow-speed handpiece:
- (I) Insertion, packing and carving (finishing) of amalgam;
 - (II) Laboratory on insertion, packing and carving (finishing) of composite and glass ionomers;
 - (III) Insertion, packing and carving (finishing) of composite and glass ionomers;
- (iv) In addition to the weekly competency examinations required by subparts (i), (ii) and (iii), each student must pass a clinical examination regarding insertion, packing and carving (finishing) of amalgam prior to taking the comprehensive competency examination required by subpart (vi).
- (v) Each student must pass the competency examination on the material covered each week before continuing to the material for the next week. Students who do not pass the competency examination may be offered remediation before the start of the next week.

(Rule 0460-05-.02, continued)

- (vi) Passage of a comprehensive competency examination on all material covered in the course is required at the end of the course. This examination shall be both written and clinical.
 - (d) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.
 - (e) The passing grade on each competency examination is set at seventy-five percent (75%). If the student initially fails any competency examination, the exam may be taken no more than one (1) additional time before the entire course must be retaken and the exam retaken. The examination shall be developed and administered by the course instructors in such a manner as to determine competency for the restorative functions.
 - (f) The director/instructor of the certification course shall, within thirty (30) days after course completion, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.
 - (g) The certification course will issue continuing education credit hours for the course.
 - (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.02 (3) (b), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.
- (4) Certification Course in Prosthetic Functions
- (a) Application for Board Approval – The director of a certification course in prosthetic functions shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The director of the certification course will be notified in writing of the Board's action(s).
 - (b) Retention of Approval.
 - 1. The certification course must be taught at an educational institution as defined in part (4) (c) 2. of this rule and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 - 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 - 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in directorship of the course.

(Rule 0460-05-.02, continued)

4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st every two (2) years.
- (c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
1. The certification course shall admit only those dental hygienists who are currently licensed, pursuant to Rule 0460-03-.01, .02, or .03, and who submit proof of a minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a dental hygienist.
 2. The course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry.
 3. The certification course shall be taught by one (1) or more Tennessee licensed dentists who are faculty members at an accredited school of dentistry.
 4. The clinical instructor-to-student ratio must be one (1) instructor to eight (8) students (1:8).
 5. The certification course shall consist of a minimum of sixty-four (64) hours of study over a two (2) week period.
 6. The course syllabus shall be approved by the Board and the course shall be designed and conducted to provide the student with detailed knowledge of prosthetic functions. The clinical experience must be provided under the supervision of qualified faculty, and the students must be evaluated for competency. The didactic and clinical portion of the course shall include instruction in all of the following subject matters:
 - (i) First Week – The first (1st) week of the course must be a minimum of thirty-two (32) hours in length and a competency examination is to be administered at the end of the week regarding:
 - (I) Anatomy and physiology;
 - (II) Dentulous soft tissue including the gingival sulcus and its management;
 - (III) Edentulous soft tissue;
 - (IV) Physiologic function of these tissues and the principles of soft tissue management;
 - (V) Occlusion for fixed and removable appliances;
 - (VI) Tray selection and impression materials of models;
 - (VII) Border molding and master impressions, including a live patient experience;
 - (VIII) Tray selection;

(Rule 0460-05-.02, continued)

- I. Custom;
 - II. Stock;
 - III. Triple tray; and
 - IV. Construction and fitting.
- (IX) Fixed prosthodontic impressions;
- I. Full mouth;
 - II. Quadrant; and
 - III. Individual.
- (ii) Second Week – The second (2nd) week of the course must be a minimum of thirty-two (32) hours in length and a competency examination is to be administered at the end of the week regarding:
- (I) Gingival retraction;
 - (II) Mechanisms of gingival retraction;
 - (III) Types and size of cord;
 - (IV) Pharmacology of medicaments used and the techniques for placement;
 - (V) Practice placement;
 - (VI) Techniques of making impressions;
 - (VII) Laboratory practice for fixed impressions including infection control;
 - (VIII) Temporary restorations and laboratory technique for each;
 - I. Aluminum;
 - II. Polycarbonate; and
 - III. Custom.
 - (IX) Fabrication, polishing and placement of temporary restorations;
 - I. Anterior; and
 - II. Posterior.
- (iii) Each student must pass the competency examination on the material covered before continuing to the material for the next week. Students who do not pass the competency examination may be offered remediation; and

(Rule 0460-05-.02, continued)

- (iv) Passage of a comprehensive competency examination on all material covered in the course is required at the end of the course.
 - (d) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.
 - (e) The passing grade on each competency examination is set at seventy-five percent (75%). If the student initially fails any competency examination, the exam may be taken no more than one (1) additional time before the entire course must be retaken and the exam retaken. The examination shall be developed and administered by the course instructors in such a manner as to determine competency for the prosthetic functions.
 - (f) The director/instructor of the certification course shall, within thirty (30) days after course completion, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.
 - (g) The certification course will issue continuing education credit hours for the course.
 - (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.02 (4) (b), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.
- (5) Certification Course in Administration of Local Anesthesia
- (a) Application for Board Approval – The director of a certification course in administration of local anesthesia shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The director of the certification course will be notified in writing of the Board's action(s).
 - (b) Exemption from Board Approval – Dental hygiene programs accredited by the American Dental Association (ADA) Commission on Dental Accreditation which teach administration of local anesthesia to the level of clinical competency to the students enrolled in the associate, bachelor, or master degree program are exempt from obtaining Board approval.
 - 1. Students who complete a course taught within their associate, bachelor, or master degree program shall have the program send an original letter on school letterhead signed by the program director attesting to successful completion of the course to the level of clinical competency.
 - 2. Students shall submit the certification application and fee.
 - 3. The certification will not be issued until the required information is received and the dental hygiene license has been issued.
 - (c) Retention of Approval.

(Rule 0460-05-.02, continued)

- ~~1. The certification course must be taught at an educational institution as defined in part (5) (d) 2. of this rule and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.~~
 1. The certification course must be taught at an educational institution and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in directorship of the course.
 4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st every two (2) years.
- (d) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
1. The certification course shall admit only those dental hygienists who are currently licensed, pursuant to Rule 0460-03-.01, .02, or .03.
 2. The certification course may only be taught by:
 - (i) Tennessee licensed dentists who are faculty members at an accredited school of dentistry or dental hygiene and who have experience teaching the administration of local anesthesia; or
 - (ii) Tennessee licensed dental hygienists with certification in the administration of local anesthesia who are faculty members at an accredited school of dentistry or dental hygiene and who have experience teaching the administration of local anesthesia. Such dental hygienist instructors may only teach the certification course while under the direct supervision of a qualified instructor-dentist.
 3. The clinical instructor-to-student ratio must be one (1) instructor to six (6) students (1:6).
 4. The certification course shall consist of a didactic section of twenty-four (24) hours and a clinical section of no less than eight (8) hours for a total of at least thirty-two (32) hours of study in administration of local anesthesia.
 - (i) Each student must pass a competency examination on the material covered in the didactic section before continuing to the clinical section of the course. Students who do not pass the competency examination may be offered remediation before the start of the clinical experience.

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(Rule 0460-05-.02, continued)

- (ii) Passage of a clinical competency examination, including satisfactorily performing injections.
- (iii) Upon successful completion of the course, the certification application and fee must be submitted by the student.
- (iv) The director/instructor of the certification course shall, within ten (10) days after course completion submit a letter, on school letterhead, for each student which attests to the student's successful completion of the course and the student's examination grades. The completed forms shall be submitted directly to the Board's Administrative Office by the director/instructor.
- (v) The student will be issued a temporary local anesthesia certification to complete a ninety (90) day extern in the office of the employer dentist(s). During the extern the following injections must be successfully completed:
 - (I) Minimum of fifteen (15) inferior alveolar blocks;
 - (II) Minimum of fifteen (15) posterior superior alveolar;
 - (III) Minimum of two (2) each of the following:
 - I. Middle superior alveolar;
 - II. Anterior superior alveolar;
 - III. Nasopalatine;
 - IV. Greater palatine;
 - V. Long buccal;
 - VI. Mental block; and
 - VII. Lingual block.
- ~~(vi) The employer dentist(s) must submit, on a form provided by the board, proof of successful completion of the injections required by subpart (5) (d) 5-(v) of this rule.~~
- ~~(vi) The employer/supervising dentist(s) must submit, on a form provided by the board, proof of successful completion of the injections required by subpart (5) (d) 4 (v) of this rule.~~
- (vii) Upon receipt of proof of successful completion of the injections, the certification for administration of local anesthesia will be issued.
- (viii) Extensions of the ninety (90) day temporary permit will be considered on a case-by-case basis upon receipt of written documentation stating the reason an extension is requested. The board consultant has the authority to grant or deny the request.

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(Rule 0460-05-.02, continued)

5. The course syllabus must be approved by the Board and meet the following requirements:

- (i) Didactic Section - The didactic section shall be designed and conducted to provide the student with detailed knowledge of administration of local anesthesia, including didactic studies and clinical experience in the administration of posterior superior alveolar, middle superior alveolar, anterior superior alveolar, nasopalatine, greater palatine, long buccal, mental block, lingual block, inferior alveolar block and infiltration techniques, medical history and physical evaluation of the patient, and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. The didactic section of the course shall include instruction in all of the following subject matters:
 - (I) Medical history evaluation procedures;
 - (II) Physical evaluation;
 - (III) Understanding pharmacology of local anesthesia and vasoconstrictors;
 - (IV) Anatomy of head, neck and oral cavity as it relates to administering local anesthetic agents;
 - (V) Indications and contraindications for administration of local anesthesia;
 - (VI) Selection and preparation of the armamentaria and record keeping for administering various local anesthetic agents;
 - (VII) Medical and legal management complications;
 - (VIII) Recognition and management of post-injection complications and management of reactions to injections;
 - (IX) Proper infection control techniques with regard to local anesthesia and proper disposal of sharps;
 - (X) Methods of administering local anesthetic agents with emphasis on:
 - I. Technique;
 - II. Aspiration;
 - III. Slow injection; and
 - IV. Minimum effective dosage;
 - (XI) Medical emergency, prevention, diagnosis, and management;
 - (XII) Instruction in the philosophy and psychology of the use of local anesthesia;
 - (XIII) A review of the physiology of nerve conduction;

(Rule 0460-05-.02, continued)

- (XIV) A review of regional anatomy;
 - (XV) A survey of local anesthetic agents on nerve conduction;
 - (XVI) A review of the metabolism and excretion of local anesthetics;
 - (XVII) Instruction on toxicity of local anesthetic drugs;
 - (XVIII) Instruction on the clinical manifestations of toxic reactions;
 - (XIX) Instruction on the treatment of toxic reactions;
 - (XX) Instruction on allergic reactions to local anesthetic drugs;
 - (XXI) Instruction on the clinical manifestations of allergic reactions;
 - (XXII) Instruction on the treatment of allergic reactions to local anesthetics;
 - (XXIII) Instruction regarding vasoconstrictor drugs used in local anesthetics;
 - (XXIV) Instruction on the clinical manifestations of toxic reactions to vasoconstrictor drugs used in local anesthesia;
 - (XXV) Instruction on the treatment of toxic reactions to vasoconstrictors used in local anesthesia;
 - (XXVI) Instruction on drug interactions related to local anesthesia;
 - (XXVII) Re-injecting when necessary; and
 - (XXVIII) Estimating the highest safe dosage of local anesthesia based upon the weight and/or age of the patient.
- (ii) Clinical Section - The clinical section must be provided under the supervision of qualified faculty, and the students must be evaluated for competency. The clinical section of the course shall include instruction in all of the following subject matters:
- (I) Evaluating the patient's health status;
 - (II) Taking the patient's vital signs;
 - (III) Administering local anesthetic infiltrations;
 - (IV) Administering local anesthetic nerve blocks; and
 - (V) Monitoring the patient's physical status while under the effects of local anesthetics.
- (e) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and

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(Rule 0460-05-.02, continued)

the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.

- (f) The passing grade on each competency examination is set at seventy per cent (70%). If the student initially fails any competency examination, the exam may be taken no more than one (1) additional time before the entire course must be retaken and the exam retaken. The examination shall be developed and administered by the course instructors in such a manner as to determine competency for the administration of local anesthesia.
- (g) The certification course will issue continuing education credit hours for the course.
- (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to subparagraph (5) (c) of this rule, may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-115, and 63-5-116.
Administrative History: Original rule certified June 7, 1974. Amendment filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Repeal filed February 12, 1996; effective April 27, 1996. New rule filed September 17, 2003; effective December 1, 2003. Amendments filed August 3, 2005; effective October 17, 2005. Amendment filed October 12, 2007; effective December 26, 2007. Amendment filed September 25, 2008; effective December 9, 2008.

0460-05-.03 SCHOOLS, PROGRAMS AND COURSES FOR THE REGISTERED DENTAL ASSISTANT.

- (1) Registered Dental Assisting Programs.
 - (a) Board-Approved Programs.
 - 1. Reserved.
 - 2. Reserved.
 - (b) ADA-Accredited Programs.
 - 1. Reserved.
 - 2. Reserved.
- (2) Certification Course in Coronal Polishing
 - (a) Application for Board Approval – The owner and/or director of a certification course in coronal polishing shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received by the Board's office at least thirty (30) days prior to the next regularly scheduled meeting of the Board in order for the Board to review the application. The owner and/or director of the certification course will be notified in writing of the Board's action(s). This section shall also apply to ADA accredited dental assisting programs.
 - (b) Retention of Approval.

(Rule 0460-05-.03, continued)

1. In order to obtain and/or retain Board approval, the certification course shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in the Board's rules.
 2. The certification course shall be subject to on-site inspections by representatives of the Board and required to complete such paper surveys as requested.
 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the course.
 4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st.
 5. At least thirty (30) days prior to the commencement of the course, the approved course shall submit the name(s) of the Tennessee dentist(s) who will be directing the course, the date of the course, and the location of the course to the Board's Administrative Office.
- (c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
1. The course shall be taught at an educational institution, defined as a school of dentistry, dental hygiene, or dental assisting, or a clinical facility approved by the Board which provides for proper patient care, including access to medication and equipment for the management of emergencies.
 2. The course shall be directed in its entirety by a dentist who is licensed in good standing by the Tennessee Board of Dentistry. The dentist/clinical instructor may employ and/or utilize licensed dental hygienists or registered and certified dental assistants with a coronal polishing certification to teach and/or assist during the clinical portion of the course.
 3. The clinical instructor-to-student ratio must be no less than one instructor to six students (1:6) for the clinical portion of the course.
 4. The certification course shall consist of fourteen (14) hours of study over a two (2) day period. The course syllabus must be approved by the Board and meet the following requirements:
 - (i) Didactic - The didactic portion of the course shall include instruction in all of the following subject matters:
 - (I) Principles of plaque and stain formation;
 - (II) The clinical appearance of plaque, intrinsic and extrinsic stains and calculus (removal of calculus and scaleable stains shall be accomplished only by a dentist or licensed dental hygienist);
 - (III) The clinical appearance of clean and polished teeth;
 - (IV) Tooth morphology and the anatomy of the oral cavity as they relate to the retention of plaque, stain and polishing techniques;

(Rule 0460-05-.03, continued)

- (V) Principles of selecting abrasives and polishing agents and their effect on tooth structure and restorative materials;
 - (VI) Principles of polishing, including the selection and care of the armamentarium, instrumentation techniques and precautions, including the care of the mouth with fixed or removable prostheses and/or orthodontic appliances;
 - (VII) Principles of aseptic technique, including the sterilization of instruments, sanitation of equipment, and control of disease transmission;
 - (VIII) Principles of selecting and applying disclosing agents, including armamentarium, technique and precautions;
 - (IX) Principles of the preparation of teeth and the oral cavity for fluoride application;
 - (X) The reaction of fluorides with tooth structure;
 - (XI) Available fluoride agents;
 - (XII) Principles of the preparation and storage of fluoride agents; and
 - (XIII) Principles of application techniques, including the selection and care of armamentarium, the isolation of teeth, adaptation of trays, techniques and precautions.
- (ii) Clinical - The course provider shall conduct clinical experience of at least two (2) hours duration, which shall include at least a one-half (½) hour demonstration by an instructor. The clinical portion shall include all significant parts of the didactic portion and hands-on experience in the following:
- (I) Identifying calculus, plaque, and intrinsic and extrinsic stains;
 - (II) Polishing exposed surfaces of teeth;
 - (III) Applying disclosing agents to the exposed surfaces of teeth;
 - (IV) Evaluating the extent of plaque and stain removal;
 - (V) Maintaining the polishing armamentarium;
 - (VI) Maintaining aseptic techniques;
 - (VII) Applying various fluoride agents; and
 - (VIII) Applying various desensitizing agents.
- (iii) The course shall include jurisprudence aspects, as follows:

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(Rule 0460-05-.03, continued)

- (I) Limitations of the practice of dental assisting in accordance with the statutes and rules of the Board;
 - (II) Limitations on dental assistant services;
 - (III) Penalties for violation of the Dental Practice Act or Rules of the Board of Dentistry; and
 - (IV) Mechanisms by which a person can report violations of statutes and/or rules of the Board of Dentistry.
- (d) The clinical instructor shall provide a copy of the syllabus to the student before or at the beginning of each course. The syllabus shall set forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.
- (e) Upon completion of the course, students shall be evaluated by both a written and a clinical examination. The written examination shall cover the didactic portion of the course. The clinical examination shall cover the clinical portion of the course. The passing grade for each examination is set at seventy-five percent (75%). A student who fails either examination may retake the examination two (2) additional times before having to repeat the course in order to retake the examination(s). The written and clinical examinations required in this subparagraph of the rule meet the examination requirement of T.C.A. § 63-5-108(d).
- (f) A letter, attesting to successful completion of the course and test score(s) for each student, must be sent to the Board's Administrative Office within thirty (30) days of completion of the certification course.
- (g) The school offering the coronal polishing certification course will issue continuing education credit hours for the course.
- (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (2) (b), may subject the course provider and students to invalidation of course results and withdrawal of course approval by the Board.
- (3) Certification Course for Sealant Application
- ~~(a) Application of Rules - This section shall apply to both Tennessee ADA accredited and Board approved dental assistant programs, as well as any other individual or entity which desires to establish such a certification course to admit and educate students who are currently registered dental assistants.~~
- (a) Application of Rules - This section shall apply to both ADA accredited and board approved dental assistant programs, as well as any other individual or entity which desires to establish such a certification course to admit and educate students who are currently registered as dental assistants. ADA accredited and board approved programs who are teaching students that are not currently registered as dental assistants must also comply with these rules but the students are not required to be a registered dental assistant until they have completed the program.
- (b) All courses/entities (with the exception of dental assisting programs whose certification course is a part of their standard curriculum) shall have a procedure in place to ensure

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(Rule 0460-05-.03, continued)

that the eligibility (current registration) of applicants is verified and documented, prior to allowing the applicant to attend the certification course.

- (c) Application for Board Approval - The owner and/or director of a certification course in sealant application shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received by the Board's Office at least thirty (30) days prior the next regularly scheduled Board meeting in order for the Board to review the application. The course provider will be notified in writing of the Board's action(s). This section shall also apply to all dental assisting programs which choose to offer the certification course as a part of their curriculum.
- (d) Retention of Approval.
1. The certification course shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment and curriculum, as set forth in these rules and as they may from time to time be amended, in order to obtain and/or retain Board approval.
 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the course.
 4. Certificates of approval shall be issued for one (1) year and shall expire on December 31st of any given year.
 5. At least thirty (30) days prior to the commencement of the course, the approved course shall submit the name(s) of the Tennessee dentist(s) who will be teaching the course, the date of the course, and the location of the course to the Board's Administrative Office.

~~(e) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.~~

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~~1. The certification course shall admit only those students who have been verified by the course as having a current registration issued by the Tennessee Board of Dentistry.~~

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~~2. The course shall be taught at an educational institution, defined as a school of dentistry, dental hygiene, or dental assisting, or a clinical facility approved by the Board which provides for proper patient care, including access to medication and equipment for the management of emergencies.~~

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~~3. The course shall be taught in its entirety by a dentist who is licensed in good standing by the Tennessee Board of Dentistry. The dentist/clinical instructor may employ and/or utilize licensed dental hygienists to assist during the clinical portion of the course.~~

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(Rule 0460-05-.03, continued)

- ~~4. The class size shall be limited to forty (40) students, and the clinical instructor-to-student ratio must be one (1) instructor to eight (8) students (1:8) for the clinical portion of the course.~~
- ~~5. The certification course shall consist of a minimum of six (6) hours of study of which at least four (4) hours must be clinical. The course syllabus must be approved by the Board and meet the following requirements:~~
- ~~(i) Didactic. The didactic portion of the course shall include instruction in all of the following subject matters:
 - ~~(I) Indication/contraindications for sealants;~~
 - ~~(II) Preparation of teeth for sealants;~~
 - ~~(III) Proper isolation and moisture control of teeth for sealants, including rubber dam, dri-angles, cotton rolls, and retractors;~~
 - ~~(IV) Education of patient and/or parent regarding sealants;~~
 - ~~(V) Sealant materials, including light curing, self-curing, and coloring;~~
 - ~~(VI) Acid etching, including proper use and negative aspects;~~
 - ~~(VII) Infection control;~~
 - ~~(VIII) Tooth anatomy, including fossa, pit, fissure, groove, and occlusion; and~~
 - ~~(IX) Armamentarium.~~~~
 - ~~(ii) Clinical. The course provider/instructor shall conduct clinical experience for a minimum of four (4) hours. The clinical portion of the course shall include instruction in each of the following areas:
 - ~~(I) Patient assessment;~~
 - ~~(II) Proper tooth isolation and preparation for sealants;~~
 - ~~(III) Infection control;~~
 - ~~(IV) Evaluation of proper technique in the placement of sealants;~~
 - ~~(V) Evaluation by instructors of completed sealants and occlusion; and~~
 - ~~(VI) Patient education, including self checks and regular dental examinations.~~~~
- ~~(e) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.~~
- ~~1. The certification course shall admit only those students who have been verified by the course as having a current registration issued by the Tennessee Board of Dentistry. Students in Board approved programs which have been approved by~~

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(Rule 0460-05-.03, continued)

the Board to teach sealant application are not required to be registered before admittance to the dental assisting program/course but are required to be registered before the temporary sealant application certification will be issued.

2. The course shall be taught at an educational institution, defined as a school of dentistry, dental hygiene, or dental assisting, or a clinical facility approved by the Board which provides for proper patient care, including access to medication and equipment for the management of emergencies. The course shall be directed by a dentist who is licensed in good standing by the Tennessee Board of Dentistry. The dentist/clinical instructor may employ and/or utilize licensed dental hygienists or registered dental assistants with sealant certification, either of which has two (2) or more years of full-time experience in sealant application, to assist during the course.

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3. The class size shall be limited to forty (40) students, and the instructor-to student ratio must be one (1) instructor to ten (10) students (1:10) for the clinical portion of the course.

4. The certification course shall consist of a minimum of six (6) hours of study of which at least four (4) hours must be clinical exercises. The course syllabus must be approved by the Board and meet the following requirements:

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- (i) Didactic - The didactic portion of the course shall include instruction in all of the following subject matters:

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(I) Indication/contraindications for sealants;

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(II) Preparation of teeth for sealants;

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(III) Proper isolation and moisture control of teeth for sealants, including rubber dam, dri-angles, cotton rolls, and retractors;

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(IV) Education of patient and/or parent regarding sealants;

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(V) Sealant materials, including light curing, self curing, and coloring;

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(VI) Acid etching, including proper use and negative aspects;

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(VII) Infection control;

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(VIII) Tooth anatomy, including fossa, pit, fissure, groove, and occlusion; and

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(IX) Armamentarium.

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- (ii) Clinical - The course provider/instructor shall conduct clinical exercises for a minimum of four (4) hours or until the clinical instructor determines clinical competency has been met. The clinical portion of the course shall include instruction in each of the following areas:

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(I) Proper tooth isolation and preparation for sealants;

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(II) Evaluation of proper technique in the placement of sealants;

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(Rule 0460-05-.03, continued)

(III) Evaluation by instructors of completed sealants; and

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(IV) Infection control.

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~~(f) The course shall require a clinical portion in which each student shall complete pit and fissure sealants on at least four (4) sealable teeth on one (1) or more patients. All necessary materials and instruments shall be provided by the student.~~

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~~(f) Each student must pass a competency examination on the material covered in the didactic section before continuing to the clinical exercises. The passing grade is set at seventy-five percent (75%). Students who do not pass the competency examination may be offered remediation before the start of the clinical exercises and attempt to pass the examination an additional two (2) times. In the event a student takes and fails the examination a total of three (3) times, the student shall be required to retake the course and retake the examination at a future date.~~

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~~(g) Upon completion of the course, students shall be evaluated by written examination. The passing grade is set at seventy-five percent (75%). A student who initially fails the examination may retake the examination no more than two (2) times. In the event a student takes the examination a total of three (3) times and fails, the student shall be required to retake the course and retake the examination.~~

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~~(g) During the clinical portion of the course, each student shall complete pit and fissure sealants on at least ten (10) sterile extracted and sealable teeth or until competency is determined by the instructor. Laboratory tooth models specifically designed for sealant placement may be substituted for some of the extracted teeth. Acceptance of teeth other than extracted teeth is to be determined by the dentist directing the course. All necessary materials and instruments shall be provided by the student. In working with the extracted teeth all OSHA personal protective equipment shall be utilized and the teeth disposed of in accordance with standard practices.~~

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~~(h) Upon completion of the course, students must successfully seal (4) four teeth to pass the course. The course instructor must verify that the student has passed the clinical examination.~~

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~~(h) Upon successful completion of the course, the certification application and fee must be submitted by the student.~~

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~~(i) The course instructor shall, within thirty (30) days after completion of a course, complete and submit a form to be provided by the Board, which lists the student's numerical grade(s) and verifies that the student has passed the clinical portion of the examination. The instructor shall submit a form for each student who successfully completes the course to the Board's Administrative Office.~~

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~~(i) The director/instructor of the certification course shall, within thirty (30) days after course completion or upon graduation from a dental assisting program submit a letter for each student which attests to the student's successful completion of the course and the student's examination grades. The completed forms shall be submitted directly to the Board's Administrative Office by the director/instructor.~~

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(Rule 0460-05-.03, continued)

~~(j) The school offering the sealant application certification course will issue continuing education credit hours for the course.~~

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~~(i) The student will be issued a temporary sealant application certification to complete a ninety (90) day externship in the office of the employer/supervising dentist(s). During the externship the following sealants must be successfully placed:~~

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~~1. A minimum of four (4) maxillary permanent molars;~~

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~~2. A minimum of four (4) mandibular permanent molars; and~~

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~~3. A minimum of two (2) premolars.~~

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~~(k) Failure by the certification course to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (3) (d), may subject the course provider and students to invalidation of course results and withdrawal of course approval by the Board.~~

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~~(k) The employer/supervising dentist(s) must submit, on a form provided by the Board, proof of successful completion of the sealants required by subparagraph (3) (i) of this rule.~~

~~(l) Upon receipt of proof of successful completion of the sealants, the certification for sealant application will be issued.~~

~~(m) Extensions of the ninety (90) day temporary sealant application certification will be considered on a case-by-case basis upon receipt of written documentation stating the reason an extension is requested. The Board consultant has the authority to grant or deny the request.~~

~~(n) The school offering the sealant application certification course will issue continuing education credit hours for the course.~~

~~(o) ADA accredited dental assisting programs who include sealant application in their curriculum shall adhere to these rules but their students shall be exempt from the externship requirements detailed in 3 (i) above. These students shall show full competency as determined by the program director. Within thirty (30) days of graduation from the ADA accredited dental assisting program, the students' certification applications and fees shall be forwarded to the Board along with a letter from the director/instructor of the program attesting to each student's successful completion of the course and the student's examination grades. Upon receipt of this information, the certification for sealant application will be issued.~~

~~(p) Failure by the certification course to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (3) (d), may subject the course provider and students to invalidation of course results and withdrawal of course approval by the Board.~~

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(4) Certification Course in Monitoring Nitrous Oxide

- (a) Application of Rules - This section shall apply to both Tennessee ADA accredited and Board-approved dental assistant programs, as well as any other individual or entity which desires to establish such a certification course to admit and educate students who are currently registered dental assistants.

(Rule 0460-05-.03, continued)

- (b) Application for Board Approval - The owner and/or director of a certification course in monitoring nitrous oxide shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The owner and/or director of the certification course will be notified in writing of the Board's action. This section shall also apply to all ADA-accredited and board-approved dental assisting programs.
- (c) Retention of Approval.
 - 1. The certification course, whether offered independently or as a part of the curriculum taught by a dental assisting program, shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 - 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 - 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the course.
 - 4. Certificates of approval shall be issued for one (1) year and shall expire on December 31st of any given year.
- (d) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
 - 1. The certification course shall admit only those registered dental assistants who are currently registered, pursuant to Rule 0460-04-.01 (2), or are currently enrolled in an ADA-accredited or board approved program which offers this course as a part of their curriculum. It is the responsibility of the course owner/director to ensure that only currently registered dental assistants are admitted to the course.
 - 2. The certification course shall be taught by a Tennessee licensed dentist or a licensed dental hygienist with nitrous oxide administration certification and a minimum of three (3) years clinical experience in utilizing administration of nitrous oxide and education in comprehensive pain and anxiety control. The instructor/dentist may employ and/or utilize anesthesiologists, pharmacologists, internists, and/or cardiologists who are licensed in Tennessee as instructors to assist the instructor/dentist in the teaching of the course.
 - 3. The certification course shall consist of a minimum of five (5) hours of study. The course syllabus must be approved by the Board and this didactic course shall be designed and conducted to provide the student with detailed knowledge of nitrous oxide – oxygen inhalation sedation, its use in dentistry, and the health hazards and abuse potential of nitrous oxide. This didactic course shall include instruction in all of the following subject matters:

(Rule 0460-05-.03, continued)

- (i) The history, philosophy, psychology of nitrous oxide-oxygen inhalation sedation;
 - (ii) Definitions and descriptions of the physiological and psychological aspects of pain and anxiety;
 - (iii) Description of the stages of drug induced central nervous system depression, through all levels of consciousness and unconsciousness, with special emphasis on the difference between the conscious and unconscious state;
 - (iv) Anatomy and physiology of respiration;
 - (v) Pharmacological and physiological effects of nitrous oxide, including physical properties, action, side effects, absorption, excretion, and toxicity;
 - (vi) Advantages and disadvantages of inhalation sedation with nitrous oxide;
 - (vii) Management of reaction to, or complications with nitrous oxide;
 - (viii) Patient status assessment including:
 - (I) Taking and reviewing vital signs;
 - (II) Reflexes related to consciousness;
 - (III) Possible reactions to nitrous oxide;
 - (ix) Instruction for post-operative care;
 - (x) Recognition, prevention and management of complications and life-threatening situations related to nitrous oxide;
 - (xi) Demonstration and use of inhalation sedation equipment;
 - (xii) Legal considerations of nitrous oxide use;
 - (xiii) Discussion of sexual phenomena and hallucinatory effects reported with nitrous oxide;
 - (xiv) Discussion of the potential for abuse of nitrous oxide;
 - (xv) Recommended techniques for reducing occupational exposure to nitrous oxide; and
 - (xvi) Introduction of potential health hazards of trace anesthetics and proposed techniques for elimination thereof, including, but not limited to, recommendations and guidelines from the Centers for Disease Control (CDC) or the Occupational, Health, and Safety Administration (OSHA).
- (e) Upon completion of the course, students shall be evaluated by written examination. The passing grade shall be seventy-five percent (75%). If the student initially fails the written examination, the exam may be taken no more than two (2) additional times before the course must be retaken and the exam retaken. The examination shall be

(Rule 0460-05-.03, continued)

developed and administered by the course director/instructor in such a manner as to determine competency for the monitoring of nitrous oxide.

- (f) The certification course, or dental assisting school, will issue continuing education credit hours for the course.

~~(g) The director/instructor of the certification course shall, within thirty (30) days after course completion or upon graduation from the dental assisting school, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed form(s) shall be submitted directly to the Board's Office by the director/instructor.~~

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~~(g) The director/instructor of the certification course or dental assisting program shall, within thirty (30) days after course completion or upon completion of the monitoring nitrous oxide portion of the ADA accredited or Board-approved dental assisting program, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course or monitoring nitrous oxide portion and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.~~

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- (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (4) (c), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.

(5) Certification Course in Expanded Restorative Functions

- (a) Application for Board Approval – The director of a certification course in expanded restorative functions shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's administrative office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The director of the certification course will be notified in writing of the Board's action(s).

(b) Retention of Approval.

1. The certification course must be taught at an educational institution as defined in part (5) (c) 2. of this rule and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in directorship of the course.
4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st every two (2) years.

(Rule 0460-05-.03, continued)

(c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.

1. The certification course shall admit only those registered dental assistants who are currently registered, pursuant to Rule 0460-04-.02, and who submit proof of a minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a registered dental assistant.

~~2. The course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry.~~

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2. The certification course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry. The course director must be a licensed dentist who is a faculty member of an accredited school of dentistry. The certification course shall be taught by a course director and one (1) or more Tennessee licensed dentists and /or RDH/EFDA auxiliaries who are employed at an accredited school of dentistry.

~~3. The certification course shall be taught by one (1) or more Tennessee licensed dentists who are faculty members at an accredited school of dentistry.~~

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~~3.4. The clinical instructor-to-student ratio must be one (1) instructor to eight (8) students (1:8).~~

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~~4.5. The certification course shall consist of a minimum of ninety-six (96) hours of study over a three (3) week period.~~

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~~5.6. The course syllabus shall be approved by the Board and the course shall be designed and conducted to provide the student with detailed knowledge of restorative functions. The clinical experience must be provided under the supervision of qualified faculty, and the students must be evaluated for competency. The didactic and clinical portion of the course shall include instruction in all of the following subject matters:~~

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(i) First Week – The first (1st) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination is to be administered at the end of the week regarding:

(I) Dental morphology and occlusion;

(II) Dental materials, hazardous materials and product safety;

I. Amalgam;

II. Composite;

III. Glass Ionomer; and

IV. Mercury.

(III) Principles of cavity preparation on anterior and posterior class I, II, III, IV, and V teeth;

(Rule 0460-05-.03, continued)

- (IV) Instrumentation for all restorations;
 - (V) Liners and bases, types and placement;
 - (ii) Second Week – The second (2nd) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination regarding items (I) through (V) is to be administered at the end of the week. No high-speed handpiece is to be used in the course, only a slow-speed handpiece:
 - (I) Isolation and rubber dam placement;
 - (II) Caries;
 - (III) Selection and placement of matrix retainers;
 - (IV) Laboratory on insertion, packing and carving (finishing) of amalgam;
 - (V) Insertion, packing and carving (finishing) of amalgam;
 - (iii) Third Week – The third (3rd) week of the course must be a minimum of thirty-two (32) hours in length and a written and/or clinical competency examination regarding items (I) through (III) is to be administered at the end of the week. No high-speed handpiece is to be used in the course, only a slow-speed handpiece:
 - (I) Insertion, packing and carving (finishing) of amalgam;
 - (II) Laboratory on insertion, packing and carving (finishing) of composite and glass ionomers;
 - (III) Insertion, packing and carving (finishing) of composite and glass ionomers;
 - (iv) In addition to the weekly competency examinations required by subparts (i), (ii) and (iii), each student must pass a clinical examination regarding insertion, packing and carving (finishing) of amalgam prior to taking the comprehensive competency examination required by subpart (vi).
 - (v) Each student must pass the competency examination on the material covered each week before continuing to the material for the next week. Students who do not pass the competency examination may be offered remediation before the start of the next week.
 - (vi) Passage of a comprehensive competency examination on all material covered in the course is required at the end of the course. This examination shall be both written and clinical.
- (d) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.

(Rule 0460-05-.03, continued)

- (e) The passing grade on each competency examination is set at seventy-five percent (75%). If the student initially fails any competency examination, the exam may be taken no more than one (1) additional time before the entire course must be retaken and the exam retaken. The examination shall be developed and administered by the course instructors in such a manner as to determine competency for the restorative functions.
 - (f) The director/instructor of the certification course shall, within thirty (30) days after course completion, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.
 - (g) The certification course will issue continuing education credit hours for the course.
 - (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.02 (5) (b), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.
- (6) Certification Course in Expanded Prosthetic Functions
- (a) Application for Board Approval – The director of a certification course in expanded prosthetic functions shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's administrative office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The director of the certification course will be notified in writing of the Board's action(s).
 - (b) Retention of Approval.
 - 1. The certification course must be taught at an educational institution as defined in part (6) (c) 2. of this rule and shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.
 - 2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.
 - 3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in directorship of the course.
 - 4. Certificates of approval shall be issued for two (2) years and shall expire on December 31st every two (2) years.
 - (c) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment, and Curriculum.
 - 1. The certification course shall admit only those registered dental assistants who are currently registered, pursuant to Rule 0460-04-.02, and who submit proof of a

(Rule 0460-05-.03, continued)

minimum of two (2) years continuous full-time employment within the past three (3) years in a dental practice as a registered dental assistant.

~~2. The course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry.~~

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~~2. The certification course shall be taught at an educational institution, defined as a school of dentistry or a school which offers a specialty program in a recognized specialty branch of dentistry. The course director must be a licensed dentist who is a faculty member of an accredited school of dentistry. The certification course shall be taught by a course director and one (1) or more Tennessee licensed dentists and /or RDH/EFDA auxiliaries who are employed at an accredited school of dentistry.~~

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~~3. The certification course shall be taught by one (1) or more Tennessee licensed dentists who are faculty members at an accredited school of dentistry.~~

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~~3.4. The clinical instructor-to-student ratio must be one (1) instructor to eight (8) students (1:8).~~

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~~4.5. The certification course shall consist of a minimum of sixty-four (64) hours of study over a two (2) week period.~~

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~~5.6. The course syllabus shall be approved by the Board and the course shall be designed and conducted to provide the student with detailed knowledge of prosthetic functions. The clinical experience must be provided under the supervision of qualified faculty, and the students must be evaluated for competency. The didactic and clinical portion of the course shall include instruction in all of the following subject matters:~~

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(i) First Week – The first (1st) week of the course must be a minimum of thirty-two (32) hours in length and a competency examination is to be administered at the end of the week regarding:

- (I) Anatomy and physiology;
- (II) Dentulous soft tissue including the gingival sulcus and its management;
- (III) Edentulous soft tissue;
- (IV) Physiologic function of these tissues and the principles of soft tissue management;
- (V) Occlusion for fixed and removable appliances;
- (VI) Tray selection and impression materials of models;
- (VII) Border molding and master impressions, including a live patient experience;
- (VIII) Tray selection;

(Rule 0460-05-.03, continued)

- I. Custom;
- II. Stock;
- III. Triple tray; and
- IV. Construction and fitting.
- (IX) Fixed prosthodontic impressions;
 - I. Full mouth;
 - II. Quadrant; and
 - III. Individual.
- (ii) Second Week – The second (2nd) week of the course must be a minimum of thirty-two (32) hours in length and a competency examination is to be administered at the end of the week regarding:
 - (I) Gingival retraction;
 - (II) Mechanisms of gingival retraction;
 - (III) Types and size of cord;
 - (IV) Pharmacology of medicaments used and the techniques for placement;
 - (V) Practice placement;
 - (VI) Techniques of making impressions;
 - (VII) Laboratory practice for fixed impressions including infection control;
 - (VIII) Temporary restorations and laboratory technique for each;
 - I. Aluminum;
 - II. Polycarbonate; and
 - III. Custom.
 - (IX) Fabrication, polishing and placement of temporary restorations;
 - I. Anterior; and
 - II. Posterior.
- (iii) Each student must pass the competency examination on the material covered before continuing to the material for the next week. Students who do not pass the competency examination may be offered remediation; and

(Rule 0460-05-.03, continued)

- (iv) Passage of a comprehensive competency examination on all material covered in the course is required at the end of the course.
 - (d) The instructor shall provide a copy of the syllabus to the student before or at the beginning of each course, setting forth the materials to be presented in the course and the evaluation criteria to be utilized by the clinical instructor to determine successful completion of the certification course.
 - (e) The passing grade on each competency examination is set at seventy-five percent (75%). If the student initially fails any competency examination, the exam may be taken no more than one (1) additional time before the entire course must be retaken and the exam retaken. The examination shall be developed and administered by the course instructors in such a manner as to determine competency for the prosthetic functions.
 - (f) The director/instructor of the certification course shall, within thirty (30) days after course completion, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.
 - (g) The certification course will issue continuing education credit hours for the course.
 - (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (6) (b), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.
- (7) Certification Course in Dental Radiology
- (a) Application of Rules – This section shall apply to both Tennessee ADA accredited and Board-approved dental assistant programs, as well as any other individual or entity which desires to establish such a certification course to admit and educate students who are currently registered dental assistants.

~~(b) Application for Board Approval – The owner and/or director of a certification course in dental radiology shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The owner and/or director of the certification course will be notified in writing of the Board's action. This section shall also apply to all ADA accredited and Board-approved dental assisting programs.~~

(b) Application for Board Approval – The owner and/or director of a certification course in dental radiology shall make application for approval to operate that course of study on forms to be provided by the Board. The completed application must be received in the Board's Office at least thirty (30) days prior to the next regularly scheduled Board meeting in order for the Board to review the application. The owner and/or director of the certification course will be notified in writing of the Board's action. This section shall not apply to ADA accredited and Board-approved dental assisting programs who provide dental radiology instruction in accordance with ADA accreditation standards or the Board-approved 116 hour dental assistant curriculum, with the exception of (e), (f) and (g) of this section.

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(Rule 0460-05-.03, continued)

(c) Retention of Approval.

~~1. The certification course, whether offered independently or as a part of the curriculum taught by a dental assisting program, shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.~~

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1. The certification course shall maintain strict compliance with all minimum standards for admissions, facilities, instructor(s), equipment, and curriculum as set forth in this rule, as amended/may be amended, in order to obtain and/or retain Board approval.

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2. The certification course shall be subject to on-site inspections by representatives of the Board and/or required to complete such paper surveys, as requested.

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3. The Board shall be notified immediately of any changes made in the operation of the certification course, such as change of location, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the course.

4. Certificates of approval shall be issued for one (1) year and shall expire on December 31st of any given year.

(d) Minimum Standards for Admissions, Facilities, Instructor(s), Equipment and Curriculum.

~~1. The certification course shall admit only those registered dental assistants who are currently registered pursuant to Rule 0460-04-.01 (2) or are currently enrolled in an ADA-accredited or Board-approved program which offers this course as a part of its curriculum. It is the responsibility of the course owner/director to ensure that only currently registered dental assistants are admitted to the course.~~

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1. The certification course shall admit only those registered dental assistants who are currently registered pursuant to Rule 0460-04-.01 (2). It is the responsibility of the course owner/director to ensure that only currently registered dental assistants are admitted to the course.

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2. The certification course shall be taught by a dentist who is licensed in good standing by the Tennessee Board of Dentistry. The dentist/clinical instructor may employ and/or utilize licensed dental hygienists or registered dental assistants certified in dental radiology to assist during the clinical portion of the course.

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3. The class shall be limited to forty (40) students and the clinical instructor-to-student ratio must be no less than one (1) instructor to eight (8) students (1:8) for the clinical portion of the course.

4. The certification course shall consist of a minimum of fourteen (14) hours of study. The course syllabus must be approved by the Board and this didactic course shall be designed and conducted to provide the student with detailed knowledge of dental radiology including radiation health and safety and its

(Rule 0460-05-.03, continued)

application to dentistry. The course shall include instruction in all of the following subject matters:

- (i) Expose and evaluate
 - (I) Select appropriate radiographic technique.
 - (II) Select appropriate radiographic film to examine, view, or survey conditions, teeth or landmarks.
 - (III) Select appropriate equipment for radiographic techniques.
 - (IV) Select patient management techniques before, during and after radiographic exposures.
- (ii) Radiation Safety
 - (I) Patient.
 - (II) Operator.
- (iii) Quality Assurance
 - (I) Identify exposure errors and ways to avoid these errors in future exposures.
 - (II) Identify processing errors and ways to avoid these errors.
 - (III) Correctly mount and label radiographs for diagnostic assessment.

~~(e) Upon completion of the course, students shall be evaluated by written examination. The passing grade shall be seventy percent (70%). If the student initially fails the written examination, the exam may be taken no more than two (2) additional times before the course must be retaken and the exam retaken. The examination shall be developed and administered by the course director/instructor in such a manner as to determine competency in dental radiology.~~

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~~(e) Upon completion of the course, students shall be evaluated by written examination. The passing grade shall be seventy percent (70%). If the student initially fails the written examination, the exam may be taken no more than two (2) additional times before the course must be retaken and the exam retaken. The examination shall be developed and administered by the course director/instructor in such a manner as to determine competency in dental radiology. This also applies to ADA accredited and Board approved dental assisting programs that provide dental radiology instruction in accordance with ADA accreditation standards or the Board-approved 116 hour dental assistant curriculum.~~

(f) The certification course, or dental assisting school, will issue continuing education credit hours for the course.

~~(g) The director/instructor of the certification course shall, within thirty (30) days after course completion or upon graduation from the dental assisting school, complete a form, provided by the Board, for each student to attest to the student's successful~~

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(Rule 0460-05-.03, continued)

~~completion of the course and the student's examination grade. The completed forms shall be submitted directly to the Board's Office by the director/instructor.~~

- (g) The director/instructor of the certification course or dental assisting program shall, within thirty (30) days after course completion or upon completion of the dental radiology portion of the ADA accredited or Board-approved dental assisting program, complete a form, provided by the Board, for each student to attest to the student's successful completion of the course or dental radiology portion and the student's examination grade. The completed forms shall be submitted directly to the Board's office by the director/instructor.
- (h) Failure to adhere to the rules governing the certification course or to provide access to inspection, pursuant to Rule 0460-05-.03 (7) (c), may subject the course provider and students to invalidation of the course results and withdrawal of course approval issued by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-111, 63-5-115, and 63-5-116. **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Repeal filed February 12, 1996; effective April 27, 1996. New rule filed September 17, 2003; effective December 1, 2003. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed October 12, 2007; effective December 26, 2007. Amendment filed September 25, 2008; effective December 9, 2008. Amendment filed October 22, 2010; effective January 20, 2011. Amendment filed December 20, 2011; effective March 19, 2012.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Charles E. Holt, Jr.	X				
James L. Smith	X				
Mary R. Warner	X				
Nadim J. Jubran	X				
Airica Puckett	X				
Mary Ellen Vaughn	X				
Lawrence Hsia	X				
Randall P. Prince	X				
Dan T. Meadows	X				
Betty Lynn Richert	X				
Katherine Hall	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Dentistry(board/commission/ other authority) on 09/19/2013 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/26/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 09/19/13

Date: 9-2-14

Signature: Jennifer L. Putnam

Name of Officer: Jennifer L. Putnam
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9-2-14

Notary Public Signature: Suzanne Mechkowski

My commission expires on: APRIL 19, 2017



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

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
9-25-14
Date

Department of State Use Only

Filed with the Department of State on: 09-30-14

Effective on: 12-29-14

Joe Hargett
Tre Hargett
Secretary of State

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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Volatile Organic Compounds Reporting

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 68-201-101 *et seq.* and 4-5-201 *et seq.*

EFFECTIVE DATES: December 18, 2014 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking amends Rule 1200-03-18-.02(8) to include the 2008 Ozone Knoxville Non-Attainment Area, comprised of Knox, Blount, and Anderson Counties. The Area is currently designated as a non-attainment area but the counties were inadvertently omitted from the language of the rule. The amendment also relocates the phrase "nitrogen oxides" for clarification. The Air Pollution Control Division intends to submit a redesignation request for the Area to be designated as attainment; however, before redesignation can occur, the language of the rule must reflect the federal Clean Air Act requirement that all sources located in a county designated non-attainment are required to report emissions of nitrogen oxides and/or volatile organic compounds greater than 25 tons per year. In addition, the rule is being revised to allow affected sources in counties that operate their own air pollution control program (local program) to send these reports to their permitting authority rather than the Technical Secretary of the Tennessee Air Pollution Control Board. This change will allow the local program to receive this data from their 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.

Comment: A commenter pointed out that the first sentence of the proposed new paragraph (8) of Rule 1200-03-18-.02 should be amended as follows to comply with the federal Clean Air Act 42 U.S. CODE § 7511A – PLAN SUBMISSIONS AND REQUIREMENTS:

“The owner or operator of any facility in Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, or Wilson County which has actual emissions from stationary sources of 25 tons or more of volatile organic compounds (VOC’s) and/or nitrogen oxides during a calendar year shall report to their permitting authority information and data concerning these emissions.”

Response: The Board agrees and the sentence has been revised as suggested.

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 Paragraph (8) of Rule 1200-03-18-.02 General Provisions and Applicability is exempt from the provisions of the Regulatory Flexibility Act of 2007, Acts 2007, § 6 of Public Chapter 464 because it is federally mandated. The rule subject to this amendment is part of the requirements of 42 U.S.C. § 7511a of the Federal Clean Air Act, which is the source of the requirement for Tennessee to "require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source."

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 have a financial impact on local governments.

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Sequence Number: 09-18-14
Rule ID(s): 5799
File Date: 9-19-14
Effective Date: 12-18-14

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Environment and Conservation
Division:	Air Pollution Control
Contact Person:	Lacey J. Hardin
Address:	15th Floor, William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue Nashville, Tennessee
Zip:	37243
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
1200-03-18	Volatile Organic Compounds
Rule Number	Rule Title
1200-03-18-.02	General Provisions and Applicability

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

Amendment

Chapter 1200-03-18
Volatile Organic Compounds

Paragraph (8) of Rule 1200-03-18-.02 General Provisions and Applicability is amended by deleting it in its entirety and substituting instead the following:

- (8) The owner or operator of any facility in Davidson, Rutherford, Shelby, Sumner, ~~Knox, Blount, Anderson, Williamson, or Wilson County~~ which has actual emissions from stationary sources of 25 tons or more of volatile organic compounds (VOC's) and/or nitrogen oxides during a calendar year shall report to ~~the Technical Secretary~~ their permitting authority information and data concerning these emissions and ~~nitrogen-oxide emissions~~. This information and data shall be in the form prescribed by the Technical Secretary, and shall be submitted before March 31 of the year following the calendar year for which the information and data is reported. The first report shall be for the 1993 calendar year, and shall be submitted before March 31, 1994. Each report shall be signed by an official of the company, certifying that the information and data contained in the report is accurate to the best knowledge of the individual certifying the report.

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				✓	
Thomas Beehan	✓				<i>Thomas Beehan</i>
John Benitez				✓	
Elaine Boyd	✓				<i>Elaine Boyd</i>
Karen Cisler	✓				<i>Karen Cisler</i>
Wayne T. Davis				✓	
Stephen Gossett	✓				<i>Stephen Gossett</i>
Shawn A. Hawkins				✓	
Helen Hennon				✓	
Richard Holland	✓				<i>Richard Holland</i>
John Roberts	✓				<i>John A. Roberts</i>
Larry Waters	✓				<i>Larry Waters</i>
Jimmy West	✓				<i>James S. West</i>
Alicia 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 05/14/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/28/14

Rulemaking Hearing(s) Conducted on: (add more dates). 04/22/14

Date: 5/16/14

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: 5/16/2014

Notary Public Signature: Malcolm H. Butler

My commission expires on: 1-11-2017

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

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

9-18-14

Date

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Filed with the Department of State on: 9-19-14

Effective on: 12-18-14

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

<u>AGENCY/BOARD/COMMISSION:</u>	Environment and Conservation
<u>DIVISION:</u>	Radiological Health
<u>SUBJECTS:</u>	Registration of Radiation Machines or Services and Inspection of X-Ray Tubes
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 68-201-101 <i>et seq.</i> and 4-5-201 <i>et seq.</i>
<u>EFFECTIVE DATES:</u>	December 24, 2014 through June 30, 2015
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>This rulemaking amends two subdivisions of Rule 0400-20-10-.24 regarding registration of radiation machines and services and inspection of newly acquired x-ray tubes in order to increase the accuracy of registration fee invoicing and reduce the number of refunds issued by the Department of Environment and Conservation. Registrants of radiation machines can qualify to pay a reduced registration fee if a private individual approved by the Department performs required inspections (and the registrants meet other requirements.)</p> <p>Rule 0400-20-10-.24(2) currently requires invoices to be dated January 17th and to be paid by March 17th. The Division of Radiological Health is not able to process all inspection reports received for inspections conducted during the previous year in time to determine whether the registrant qualifies for the discounted rate because the current rule requires invoices to be sent in January prior to issuance of registration fee invoices. The amended rule will require invoices to be dated May 1st and to be paid by June 15th so that the reports can be processed prior to invoicing.</p> <p>Rule 0400-20-10-.24(3)(d)2 is amended to require newly acquired x-ray tubes to be inspected within 3 months of ownership or possession instead of 6 months. Initial registration fees are invoiced on a quarterly basis. Due to this change, more inspection reports will be received and processed by the Division prior to issuance of the initial registration fee invoice.</p>

Public Hearing Comments

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

Comment: The Tennessee Hospital Association, the Tennessee Medical Association, and the Tennessee Dental Association all responded to the Department's notice of rulemaking that they did not have any concerns regarding the amendments being made to this rule and did not have any formal comments to submit.

Response: Comments so noted.

Comment: The commenter suggested certain changes be made to the computer programs of the Division of Radiological Health and Fiscal Services. He believes these changes would make the process easier without having to make the amendments to the rule that the Department is proposing. His written comments are included below:

January Bill:

1. Sets "Annual" flag
 - a. R.I. sign up entire year with all of R.I. Program stipulations.
 - b. Sign up for total bill does not allow changing mind "later". (e.g. no funds brought forward)
 - c. Contingency on "failure"
2. Additional machines generate "Date of Possession" flag
 - a. Must pay 18% (but option given to give up 82% for full year)
 - b. Registrant reminded of "6 months" for inspection or "failure" for year

R.I. Section of DRH:

"Annual" Flag gives prompt 60d from January 31, which initiates OK (clear flag), extension, or failure. Failures go to Fee Section for collection of 82% and cancel 18%

Additional machines:

"Date of Possession" flag gives prompt 60d from 6 months from "Date of Possession", which initiates OK (clear flag), extension or failure. Failures go to Fee Section for collection of 82% and cancel 18%.

Would deal with "omission" of proper R.I. form on case-by-case basis for changing failure.

- Benefit:**
1. Registrant is responsible!
 2. Allows collection of 82% on failure
 3. Doesn't delay 2015 bills to May - \$ lost to State

- Drawbacks:**
1. Slightly more computer programming
 2. Keeps 6 months instead of 2 months for additional machines
 3. It is at 1st bill in January that different classes are addressed
 4. Facilities must keep registration up to date, not State
 5. How to address "non-functioning" and "in storage" on initial R.I.

Response: These suggestions are not compatible with the Division of Radiological Health's DRH track computer program and Fiscal Services' GIA computer program and would be difficult to implement. To make these types of changes to these computer programs, much additional work on the part of Information Systems, Fiscal Services, and the Division would be required. These amendments to the rules will not affect the Division's budget. Fees will be collected within the same fiscal year, therefore there will not be a loss of money to the state.

Comment: Two Commenters suggested amendments to Rule 0400-20-10-.24(3)(d). A written comment concerning this rule was submitted:

My name is Ben Edwards. I am the Radiation Safety Officer for Vanderbilt University and the Vanderbilt University Medical Center.

I first want to acknowledge the critical importance of the Division of Radiological Health. The Division's duty of protecting Tennesseans and the environment from the hazards associated with ionizing radiation is an essential function that must be adequately supported.

With regard to the proposed rule changes, I have the following comment:

The proposed changes to Chapter 0400-20-10 do not address the most problematic item in that chapter. Rule 0400-20-10-.24 paragraph (3) subparagraph (d) allows registrants to pay 18% of the full registration fee only if ALL of the x-ray tubes on the registration have been inspected on time. However, if any x-ray tube is inspected late, regardless of the reason, the full fee is assessed for not only the late tube but for ALL tubes on the registration. As written, this rule:

- penalizes registrations with large number of tubes
- creates a penalty that is disproportionate to the infraction, and
- establishes a regulation that is arcane, difficult for new program managers and radiation safety officers to understand, and inconsistent with the corresponding regulations in other states.

The Division has demonstrated a willingness to consider written appeals of full registration fees imposed under this rule. However, pursuing the appeals process creates additional administrative work for both the registrant and the Division, diverting time and resources away from the more important business of ensuring safety and regulatory compliance. Similarly, this Rule encourages institutions to split their x-ray tubes into as many registrations as possible simply to reduce their vulnerability, again creating additional administrative work for the registrant and the Division with no safety or compliance benefit. To address this problem, I propose the amendment of Rules 0400-20-10-.24(3)(d) and 0400-20-10-.24(3)(d)1 to read **[changes in bold]**:

0400-20-10-.24(3)(d) A registrant may qualify to pay a registration fee equal to 18 percent of that listed in this paragraph **for any tube that meets** the following conditions:

1. **Any** tube subject to registration **is** inspected in accordance with paragraphs (3), (4), and (5) of Rule 0400-20-10-.27.

Response: These comments suggest modifications to rules that are beyond the scope of these amendments. The Department plans to explore how these suggested amendments would affect the Division and will consider these suggestions for a future rulemaking.

Comment: The proposed time frame to have newly purchased x-ray tubes inspected is not enough time for the facilities to have the inspection completed. The current time frame is six months. The proposed rule decreases this to two months. This could create a burden on the medical physicist as they still have to complete their inspections of the regular x-ray tubes. Changing the proposed time frame to three months would provide a more ideal amount of time. If this proposal is necessary from a billing perspective, it is suggested that rule 0400-20-10-.24(3)(d) be amended to charge full fee on only the x ray units that are not in compliance with reduced fee rules.

Response: This comment covers two separate components. The portion of this comment that suggests amendments to 0400-20-10-.24(3)(d) is beyond the scope of these amendments; however, the

Department plans to explore how this suggested amendment would affect the Division and will consider the changes for a future rulemaking. The other portion of this comment suggests that the time frame for inspection of new x-ray tubes be changed from 2 months as proposed to 3 months. The Division agrees with this comment and will incorporate it into the proposed rules.

Comment: Registrants have a requirement to register their x-ray units within ten days of getting the x-ray unit. Previously had a requirement to get them inspected within six months. Now the Division is proposing two months. In the past, registrants have had trouble receiving their registration back from the state within the six month time frame. We realize that the Division has had staffing issues but if you move it to two months, since they are required to have the registration in hand during the inspection, the Division needs to ensure that registrants receive their registration back within a timely manner (e.g. two weeks).

Response: Inspections may be performed by a Registered Inspector prior to the registrant receiving the registration form from the Department. The Registered Inspector may note on the inspection form that the registration is pending.

Comment: I believe 90 to 120 day post install time frame would be better served. The March 17th date is feasible. I believe most facilities schedule inspections around their patient/personnel schedules. Not opposed to changes but don't see that they would improve anything. Sites should be able to utilize the discounts as this can be large expense for small businesses.

Response: The January 17th invoicing date does not give Department staff enough time to review and process inspection reports received late in the year. By adopting the May 1st invoicing date, the Department staff should have ample time to review inspection reports and enter the information into the database that Fiscal Services uses to invoice. This will allow Fiscal Services to send an accurate invoice to the registrants who qualify for a reduction in fees. Billing would be improved for customers because it would allow most customers invoiced for correct fee. The number of customers receiving invoices will be substantially reduced. The Division has decided to extend the proposed time frame for a new x-ray tube to be inspected from 2 months to 3 months.

Regulatory Flexibility Addendum

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

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

The amended rule will affect small businesses with possession of x-ray producing equipment, and persons that inspect x-ray equipment. The estimated number of small businesses included under these rules is approximately 5,000 facilities.

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

There are no projected additional reporting, recordkeeping or administrative costs as a result of the amendments to the current fee categories.

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

These amendments are being made in response to feedback from internal and external stakeholders. Many of these stakeholders are small businesses. These amendments will provide a better invoicing process affecting these businesses in a positive manner.

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

The Department is unaware of alternatives to the proposed rules. These amendments are being made in response to feedback from internal and external stakeholders.

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

There are no federal or state counterpart rules to compare.

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

Exempting small businesses from this proposed rule would result in denying them of the benefits it offers.

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 these amended rules will not have a financial impact on local governments.

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Sequence Number: 09-24-14
Rule ID(s): 5804
File Date: 9-25-14
Effective Date: 12-24-14

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Environment and Conservation
Division:	Radiological Health
Contact Person:	Roger Fenner
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0404
Email:	Roger.Fenner@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
0400-20-10	Licensing and Registration
Rule Number	Rule Title
0400-20-10-.24	Registration

(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 0400-20-10
Licensing and Registration
Amendments

Paragraph (2) of Rule 0400-20-10-.24 Registration is amended by deleting the paragraph and substituting the following so that, as amended, paragraph (2) shall read as follows:

- (2) An annual registration fee will be ~~due the first working day following January 1 of~~ required each year as long as the radiation machine or service is subject to registration. Each registrant shall submit the annual fee payable to, "Treasurer, State of Tennessee," in the appropriate dollar amount in accordance with the Classification and Fee Schedule in paragraph (3) of this rule to the Division of Radiological Health. Payment shall be accompanied by a copy of the fee invoice properly completed. The invoice for the annual fee will be dated ~~January 17~~ May 1st and will require payment by ~~March 17~~ June 15th of the indicated year. The annual registration fee shall be due within 45 days of issuance of an invoice. At the time of the annual payment, a registrant of only Class II radiation machines may request specific times or list restricted hours during normal work hours for inspections pursuant to Rule 0400-20-10-.27 by personnel of the Division of Radiological Health, Tennessee Department of Environment and Conservation.

Part 2 of subparagraph (d) of paragraph (3) of Rule 0400-20-10-.24 Registration is amended by deleting the paragraph and substituting the following so that, as amended, part 2 shall read as follows:

2. Each newly acquired tube subject to registration is inspected within ~~6~~ 3 months of ownership or possession.

Authority: T.C.A. §§ 68-202-101 et seq. and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 08/28/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: (06/25/14)

Rulemaking Hearing(s) Conducted on: (add more dates). (08/19/14)

Date: 8/28/14

Signature: Robert J. Martineau, Jr.

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner



Subscribed and sworn to before me on: 8-28-14

Notary Public Signature: Beth B. Smith

My commission expires on: July 6, 2015

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

9-23-14
Date

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Filed with the Department of State on: 9-25-14

Effective on: 12-24-14

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Tennessee Higher Education Commission
<u>DIVISION:</u>	Postsecondary School Authorization
<u>SUBJECT:</u>	Authorization and Regulation of Postsecondary Institutions and their Agents
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 49-7-2002, 49-7-2003, 49-7-2004--49-7-2008, 49-7-2011, 49-7-2013 and 49-7-2014(a).
<u>EFFECTIVE DATES:</u>	December 1, 2014 through June 30, 2015
<u>FISCAL IMPACT:</u>	None, however the implementation of the new rule "Return of Regulatory Fees" will require minimal expenditures and the operation of this rule will result in a reduction of fee revenue equal to the amount and excess of any reserve balance as of the end of the fiscal year that is greater than two million dollars.
<u>STAFF RULE ABSTRACT:</u>	<p>These rules make revisions related to the authorization and regulation of postsecondary institutions and their agents as follows:</p> <p>1540-01-02 Definitions:</p> <ul style="list-style-type: none">• Generally, the revisions to .03 are intended to improve internal consistency as well as consistency between the rules and the Postsecondary Education Authorization Act of 1974, T.C.A. §§ 49-7-2001-2020 ("the Act").• Revisions also incorporate changes made during the 2008 rulemaking process. In October 2011, the Davidson County Chancery Court declared the 2008 rulemaking revisions void and of no effect as a result of a procedural error. <p>1540-01-02-.05 Exemption:</p> <ul style="list-style-type: none">• The revision to .05(1) clarifies that the exemption authority is located in T.C.A. §49-7-2004.• The revisions to .05(1)(a)1. and 2. address situations where there is no charge directly to the student, but the institution does receive funds on behalf of the student

through a program as described in the revision. It has become apparent to THEC that the current rule restricts the allocation of federal funds to certain educational providers and that this was not the intent of the rule. Thus, the revision is made to avoid an unintended consequence of the current wording of the rule • The revisions to .05(1)(a)4. Improves understanding.

- The addition of .05(1)(b) and (c) and the deletion of current .08(10) place all exemptions under .05 and clarify the grounds under which short term programs, seminars, workshops, and professional enhancement may be exempt. This revision should make the rules more user-friendly and improve understanding.
- The addition of .05(1)(d) and (f) reintroduce exemptions into the rules that were removed from the rules as a result of the determination of the Davidson County Chancery Court in October 2011 that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error. The language in .05(1)(d) is similar to language that appeared in the 1998 version of the rules, which appears to have been deleted in error.
- The addition of .05(1)(e) exempts a type of exam preparation not contained in .05(1)(d). This exemption is listed separately because the nature of the training requires that explicit provisions be included to address promotion and advertising.
- The additions of .05(1)(g) and (h) and the deletion of current .08(8) place all exemptions under .05. This revision should make the rules more user-friendly and improve understanding.
- The revisions to .05(2)-(4) clarify that an institution may request a determination of exemption for either programs or the institution as a whole. The revisions also remove the language that limits the term of the exemption status. This allows THEC to award exemptions for an unlimited amount of time while preserving the ability to revoke or amend an exemption. These revisions benefit institutions by simplifying the exemption review process and better describing the procedure for receiving a determination of exemption.

1540-01-02-.07 Institutional Applications:

- The revisions to .07(6)-(10) make the rule consistent with T.C.A. § 49-7-2013, corrects internal cross references, and places all bond requirements under one paragraph.

1540-01-02-.08 Regulations for Specific School Types:

- The deletion of .08(3)(a) removes redundancy in the rules as rule .02(4)(e) allows Commission Staff to establish application deadlines.

- THEC is deleting current .08(8) and (1 0), but is providing for the exemptions in .05. This modification serves to place all exemptions under .05. This revision should make the rules more user-friendly.

1540-01-02-.11 Institutional Catalog:

- THEC added .11 (1)(r) as a result of the revision made to .19 concerning cash discounts. This revision seeks to ensure that all students receive the institution's SS-7039 (October2011) 20 RDA 1693 cash discount policy and protects an institution in the event of a complaint.

1540-01-02-.13 Enrollment Agreements and Disclosure Standards:

- The addition of .13(2)U) was made as a result of adding language to .19 allowing institutions to offer cash discounts. This revision seeks to ensure that all students are made aware that the institution has a cash discount policy and protects an institution in the event of a complaint.
- The revision to .13(3) is due to a waiver made by Dr. Richard Rhoda on April 29, 2010. At that time, it was determined that it was necessary to waive the rule provisions that require that certain language concerning placement, completion and withdrawal data appear in the enrollment agreement because the language contained in the rule had become obsolete and potentially misleading as a result of the passage of and subsequent implementation of 2008 Public Chapter 1103 (codified at Tenn. Code Ann.§ 49-7-2019). The revision will benefit students and institutions by making sure students receive clear and recent statistical data.

1540-01-02-.14 Financial Standards:

- The revision to .14(6) is due to a waiver made by Dr. Richard Rhoda on April 29, 2010. At that time, it was determined that certified public accountants are not performing audits on smaller companies and that the cost of audits is prohibitive to smaller institutions.
- The revision to .14(7) is made to ensure that institution monies are not comingled with personal monies.

1540-01-02-.16 Personnel and Instructor Qualifications:

- The revisions to .16(1), (2), and (11)(a) and (d) put into the rule the policy of the Commission regarding the institution staff requiring the filing of a School Personnel Application, state that qualifications must be met, and explain the institution's evidentiary burden. These revisions also result in the deletion of current paragraph (12). The ten (1 0) day filing date allows THEC to obtain personnel qualification information following an

individual hire date such that THEC can review the information and notify the institution of any problems prior to the new hire beginning work or continuing in the position for very long. The ten (10) day filing date was in the 2008 and 2009 versions of the rules but was removed as a result of the October 2011 Davidson County Chancery Court declaration that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error.

- The language of current rule .16(11)(d)4. and 5. can be read such that an instructor with a bachelor's degree may not be qualified to teach an associate, diploma, or certificate level program. THEC opines that this was not the intent of the rule. Therefore, THEC has revised the rule so that an instructor will be qualified to teach all program levels beneath the highest level for which the instructor is qualified. This revision benefits institutions by simplifying the qualification requirements.
- The revisions to .16(13) are necessitated by other changes to the rule.
- The revisions to .16(15) generally clarify the language of the rule. The revision of paragraph (c) is intended to provide guidance as to the term "common ownership."

1540-01-02-.19 Fair Consumer Practices and Student Complaints:

- The addition of .19(5) and (6) allows institutions to provide cash discounts to students under certain circumstances and allows institutions to issue monetary awards, such as scholarships, under certain circumstances. Neither provision requires pre-approval by THEC, but institutions are required to provide any necessary documentation if asked by THEC to establish compliance. THEC proposes this revision in recognition of the fact that under certain circumstances cash discounts and monetary awards are appropriate. This revision, which was requested by institutions, will benefit institutions by allowing students to use cash payments, but it will also protect students by requiring that all students be made aware of the policy.

1540-01-02-.26 Return of Regulatory Fees:

- The addition of paragraph (1) is a result of discussions during the 2009 rulemaking proceeding. At that time, institutions were concerned that the fee increase was excessive. In response, THEC crafted this rule to ensure that it collects no more than is necessary to cover the costs in the annual budget and to maintain a reasonable surplus. This will benefit institutions by ensuring that excess collections will be returned to the institutions as described in the rule.

- Paragraph (2) provides a mechanism by which an institution can request a refund of all, or a portion, of fees paid if it decides to withdraw a pending application. This will benefit institutions by allowing THEC to return a portion of the fees depending on how much staff review has occurred at the time of withdrawal. This rule is similar to language that was removed from the 2000 rules as a result of the republication of the rules following the Davidson County Chancery Court's determination in October 2011 that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error.

Public Hearing Comments

Rules of Interest - Definition of Accreditation, College and University and Institution Names

- 1540-01-02-.03 – Definitions
- 1540-01-02-.06(14) – Minimum Authorization Standards and Requirements

Comment Summary

The January 30, 2014 proposed revisions to Rule Chapter 1540-01-02 did not include certain changes that were in the December 6, 2013 draft language. The commenters refer to the proposed definition of accreditation, college and university in .03 and language revising .06(14) concerning institution names.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)
- North Central Institute (Clarksville) (as to definition of accreditation)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, the institution name rule at .06(14) and the definitions of accreditation, college and university in .03 are not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to these rules, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

For purposes of background, DPSA notes that on December 6, 2013, DPSA sent authorized institutions draft rule revision language via email and encouraged institutions to review the language and submit comments. On January 16, 2014, the Committee of Postsecondary Educational Institutions considered a set of rule revisions drafted by DPSA. The revisions were drafted after considering the December 6, 2013 draft language, filed comments, and legislative activity. Thereafter, on January 30, 2014, the Commission approved the proposed revisions for purposes of filing a Notice of Rulemaking Hearing and conducting a hearing as soon as possible.

DPSA notes that proposed legislation regarding an institution's name was introduced in the 108th General Assembly. In the first session, SB0546/HB969 did not pass. In the second session, SB1963 regarding an institution's name was filed on January 22, 2014, and HB2162 was filed on January 28, 2014. As of April 15, 2014, the legislation passed out of the Senate and the House of Representatives.

Rules of Interest – Definition of Agent and Agent Permitting

- Rule 1540-01-02-.03(1)(e) – Definitions
- 1540-01-02-.16(15) – Personnel and Instructor Qualifications

Comment Summary

Clarification is needed as to whether "an individual that is distributing general institution information or program information without the offer of enrollment or use of enrollment forms, whether theirs or forms from the State, would this person not be considered an agent and, therefore, would not need an agent fee?"

Commenting Entities

- Tennessee Association of Independent Colleges & Schools

- National College of Business & Technology (Nashville and Madison)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

Distributing general institution or program information constitutes solicitation under the definition of agent and the person will have to obtain an agent permit if he or she otherwise meets the definition of agent.

Rule of Interest – Definition of Agent

Rule 1540-01-02-.03(1)(e) – Definitions

Comment Summary

The definition of agent should remain unaltered. As the definition currently reads, a person who hands out information about educational opportunities in the area is not required to obtain an agent permit when the person has other primary job duties. Handing out such information creates good will within the community.

Commenting Entities

North Central Institute (Clarksville)

Commission Staff Response

DPSA disagrees that the current definition does not require an agent permit as described in the comment. Additionally, the proposed definition is preferable as it better reflects the statutory definition found at T.C.A. § 49-7-2003(1).

Rule of Interest – Degree Designations

Rule 1540-01-02-.08(3)(b) – Regulation for Specific School Types

Comment Summary

The rules do not go far enough to address the issue of degree designation.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, the degree designation paragraph, 1540-01-02-.08(3)(b) is not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to this rule, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

Additionally, DPSA notes that proposed legislation regarding degree designations was introduced in the 108th General Assembly. Members introduced SB1170/HB1091 in the first session; however, the legislation did not pass. On March 19, 2014, the Senate bill came up in the second session and the Senate Education Committee assigned the bill to general sub.

Rule of Interest - Disclosure of Completion, Retention, and Placement Rates

1540-01-02-.13(3)(a) – Enrollment Agreements and Disclosure Standards

Comment Summary

This rule requires only institutions in this sector to disclose completion, retention, and placement rates to potential students in the enrollment agreement. State institutions and some private institutions do not have similar disclosure requirements. If the purpose of the rule is to provide consumer protection, the rule should be applied to all potential students of all institutions or none at all.

Commenting Entities

University of Phoenix (Cordova, Chattanooga, Clarksville, Knoxville, Murfreesboro, and Nashville, Tennessee and Phoenix, Arizona)

Commission Staff Response

DPSA notes that the Commission's authority to promulgate rules pursuant to T.C.A. § 49-7-2005(a)(6) applies to title 49, chapter 7, part 20. This part does not apply to institutions exempt pursuant to T.C.A. § 49-7-2004, which includes public institutions and some private institutions. This rulemaking is conducted pursuant to the rulemaking authority granted in T.C.A. § 49-7-2005(a)(6); therefore, the rules presented do not include exempt institutions.

Additionally, the Commission has the authority to require the disclosures by authorized institutions. Chapter 1540-01-02 has required that institutions disclose withdrawal, completion, and placement information since March 1993. T.C.A. § 49-7-2006(a)(1)(D) permits THEC to specify disclosures required to be given to prospective students along with a catalog or brochure prior to enrollment. T.C.A. § 49-7-2008(f)(3) allows THEC to require that institutions publish placements rates and employment and earnings information. Also, pursuant to T.C.A. § 49-7-2019: "Information related to graduation, job placement and tuition costs required to be provided to the commission shall also be provided in writing to a prospective student for the specific field of study in which the student is considering enrolling." DPSA notes that the latter statutory reference was not included in the Notice of Rulemaking Hearing authority, but has been added.

Rule of Interest – In-Field Placement Services

1540-01-02-.13(4) – Enrollment Agreements and Disclosure Standards

Comment Summary

Language should be added to 1540-01-02-.13(4) such that institutions that "do not have in-field placement services" may receive a waiver of 1540-01-02-.13(3).

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, Rule 1540-01-02-.13(4) was not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to this rule, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

Rule of Interest – Filing of School Personnel Applications

1540-01-02-.16(1) – Personnel and Instructor Qualifications

Comment Summary

The due date should be changed to 20 calendar days from the start date rather than 10 days from the hire date.

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA does not recommend adoption of this comment. DPSA contends that obtaining the information as soon as possible after the hire date allows DPSA to review the information and notify the institution of any problems prior to a new hire beginning work or continuing in the position for very long. DPSA notes that it is in the best interest of the institution and the new employee to submit the necessary documentation as soon as possible to avoid problems in the event the employee does not meet THEC's minimum qualifications.

Rule of Interest – Definition of Administrative Personnel

1540-01-02-.16(1)(b) and (3) – Personnel and Instructor Qualifications

Comment Summary

The reference to "administrative personnel" in .16(1)(b) and (3) should include the term "senior."

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. Although Rule 1540-01-02-.16(1)(b) is included in the Notice of Rulemaking Hearing, other rules defining and using the term "administrative personnel" are not in the notice. Specifically, Rule 1540-01-02-.16(3) and (4) are not addressed in the notice. Therefore, DPSA is not recommending adoption of this comment at this time. Additionally, DPSA believes the definition is clear and the term "administrative personnel" best suits the needs of a variety of entities and organizational structures.

Rules of Interest - Personnel and Instructor Qualifications

- 1540-01-02-.16(2) – Personnel and Instructor Qualifications (to be renumbered .16(3))
- 1540-01-02-.16(11)(b) &(c) – Personnel and Instructor Qualifications (to be renumbered .16(12)(b)&(c))

Comment Summary

The January 30, 2014 proposed revisions to Rule Chapter 1540-01-02 did not include certain changes that were in the December 6, 2013 draft language. The commenters refer to .16(2) and (11)(b) and (c) concerning instructor qualifications.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville and Madison)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, .16(2) and (11)(b) and (c) are not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to these rules, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

As to 1540-01-02-.16(2) and (11)(b) and (c), DPSA notes that it is intended that the paragraphs and subparagraphs as currently worded will remain in the rules. The only language revision proposed in

the December 6, 2013 draft language sent to institutions was a typographical correction to .16(11)(b) that did not affect the meaning of the subparagraph. While this correction could have been included in the Notice of Rulemaking Hearing, it was not, and given such, it would be outside the scope of the rulemaking to include the revision at this time. DPSA will investigate whether the typographical correction can be made outside the rulemaking process of the Uniform Administrative Procedures Act.

Rule of Interest – Cash Discounts

Rule 1540-01-02-.19(5) – Fair Consumer Practices and Student Complaints (New Paragraph)

Comment Summary

The commenters support the addition of rule language concerning cash discounts.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

No response is necessary.

Rule of Interest – Cash Discounts

Rule 1540-01-02-.19(5) – Fair Consumer Practices and Student Complaints (New Paragraph)

Comment Summary

1. The Commission should clarify the phrase “discount for cash payment” and whether “tuition grants” are “discounts for cash payment.” The phrase should mean “a lower tuition charge in exchange for a student paying the institution directly in advance using a credit card or other direct payment method that is not federal financial aid.”
2. Clarification is needed to ensure that the rule paragraph does not include awards that are given to individual students on a case-by-case basis, including awards for corrections, customer service credits, and operational error corrections. The speaker proposes the following language be added: “For purposes of Section 6, a scholarship, tuition waiver, or other award does not include internal adjustments, including but not limited to, awards for corrections, customer service credits, and revisions for operational error.”

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

1. DPSA adopts the comment, in part. First, DPSA provides clarification herein by noting that “tuition grants” would be included in new paragraph (6) of Rule 1540-01-02-.19 and by adding the word “similar” to .19(6) such that the language reads: “An institution may award a scholarship, tuition waiver, or other similar award provided:” Second, DPSA opines that allowing an institution to define cash payment provides institutions greater flexibility and control.
2. DPSA does not adopt this comment at this time as the qualifying language in (6)(a)-(c) adequately limits the types of waivers or awards that are acceptable. Elsewhere, the rules support that an institution correctly bill a student and, in the event that billing is erroneous, post necessary corrections to the student’s account.

Rule of Interest - Return of Regulatory Fees

Rule 1540-01-02-.26 – Return of Regulatory Fees (New Rule)

Comment Summary

When refunds are issued based on a percentage of the total of all reauthorization fees paid by an institution, small schools are going to be under-refunded.

Commenting Entities

West Tennessee Business College

Commission Staff Response

According to the language of .26, an institution will receive a percentage of the refund amount that is equal to the percentage paid of the total reauthorization fees collected. Under this methodology, the percentage of the refund to the reauthorization fee paid will be the same for all institutions. Thus, no institution will be under-refunded.

Rule of Interest - Return of Regulatory Fees

Rule 1540-01-02-.26 – Return of Regulatory Fees (New Rule)

Comment Summary

The commenters support the addition of rule language concerning a return of regulatory fees.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

No response is necessary

Regulatory Flexibility Addendum

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

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:
The Tennessee Higher Education Commission (THEC) represents that the businesses affected by these rule revisions are non-exempt postsecondary educational institutions. THEC opines that approximately 98 or 52% of the non-exempt postsecondary educational institutions may be small businesses.
- (2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:
THEC represents that the additional reporting, recordkeeping and other administrative costs required for compliance with the proposed rule revisions is minimal. Similarly, the rule revisions do not require small business institutions to procure any professional skills that the institution would not already need to comply with the current rules.
- (3) A statement of the probable effect on impacted small businesses and consumers:
THEC represents the following:
 - The adoption of new rule .26 titled "Return of Regulatory Fees," may result in a refund to small businesses and such refund may be passed down, in whole or in part, to the students through lower fees or tuition.
 - The revisions to rules .11 and .13 are applicable only when an institution elects to adopt a cash discount policy as provided for in the revision to rule .19. Using a cash discount may in fact benefit institutions and students by providing the institution a more certain form of payment and the student lower tuition costs.
 - The revision to rule .14 should benefit small business institutions by alleviating the financial burden of submitting audited financial statements.
 - The revision to rule .19(6) should benefit small business institutions by providing clarity as to when an institution may offer scholarships, tuition waivers or similar awards. Being able to offer such awards may aid the recruitment efforts of small business institutions.
- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:
THEC represents that this is not applicable because the proposed rule revisions are not burdensome, intrusive or costly.
- (5) A comparison of the proposed rule with any federal or state counterparts:
THEC represents that there are no federal or state counterparts to the proposed rule revisions.
- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:
THEC represents that this question is not applicable because the proposed rule revisions are not burdensome, intrusive or costly. Moreover, exemption from the rules noted in response to number (3) would operate to deny small businesses the benefit of the refund, the waiver of the audit requirement, and the use of cash discounts and tuition awards.

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)

THEC represents that the proposed rule revisions will not have a financial impact on local governments.

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File Date: 9-2-2014
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Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Higher Education Commission
Division:	Division of Postsecondary School Authorization
Contact Person:	Julie M. Woodruff
Address:	Parkway Towers, Suite 1900, 404 James Roberson Parkway, Nashville
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Email:	Julie.woodruff@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
1540-01-02	Authorization and Regulation of Postsecondary Institutions and Their Agents
Rule Number	Rule Title
1540-01-02-.03	Definitions
1540-01-02-.05	Exemption
1540-01-02-.07	Institutional Applications
1540-01-02-.08	Regulations for Specific School Types
1540-01-02-.11	Institutional Catalog
1540-01-02-.13	Enrollment Agreements and Disclosure Standards
1540-01-02-.14	Financial Standards
1540-01-02-.16	Personnel and Instructor Qualifications
1540-01-02-.19	Fair Consumer Practices and Student Complaints
1540-01-02-.26	Return of Regulatory Fees

Chapter 1540-01-02

Authorization and Regulation of Postsecondary Education Institutions and Their Agents

1540-01-02-.03 Definitions.

- (1) The following definitions are complementary to definitions in T.C.A. § 49-7-2003 and have the following meanings, unless the context clearly indicates otherwise:
- (a) "Ability-to-benefit" as used in these regulations, in contrast to the use of that term for federal financial aid or other purposes, means students, regardless of financial condition, who do not possess a high school diploma or GED, but who have demonstrated that they can profit materially or personally from a certain course of study.
 - (b) "Academic" in description of a program or institution means that which is organized primarily for academic training or transfer.
 - (c) "Act" means the Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended.
 - (d) "Adverse action" means action taken by the Executive Director or Commission to penalize, limit, change, suspend or cause to cease activity that is in non-compliance with the Act and these rules. Such adverse action may include but not be limited to fines of \$500 per violation per day; suspension of activity; conditional authorization or revocation.
 - (e) "Agent" means ~~a person employed full or part time by the institution, whether the institution is located within or without the state of Tennessee, to act as representative, solicitor, broker, or independent contractor to directly procure or induce people to become students or enrollees for the institution at an off-campus location~~ any person owning any interest in, employed by or representing for remuneration a postsecondary educational institution, who, by solicitation in any form, outside of the institution, enrolls or seeks to enroll a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution for any such purpose.
 - (f) "Associate degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 60 semester credit hours or 90 quarter credit hours of instruction, or equivalent.
 - (g) "Authorization to operate" means permission or licensure to operate for a specified time in a specified place(s). An institution or agent awarded a letter or certificate of authorization in Tennessee shall not use terms to interpret the letter or certificate which specify or connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
 - (h) "Authorization site visit" means an institutional site visit conducted by Commission staff or Postsecondary Committee members to verify compliance with Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended and the chapter 1540-01-02 of the Postsecondary Regulations. The authorization visit is commonly called a 'site visit'.
 - (i) "Bachelor's degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 120 semester credit hours or 180 quarter hours, or equivalent.

- (j) "Certificate program" generally means one or more technical courses usually completed in one to twenty-six weeks, or up to and including 500 contact hours normally with a single skill objective.
- (k) "Certified" when used to modify audit refers to an audit in accordance with Generally Accepted Auditing Standards (GAAS) and in accordance with the auditing standards set forth in the book, "Government Auditing Standards" issued by the Comptroller of the United States (often referred to as the "yellow book" standards). If, However, the entity is required for other reasons to have conducted a certified audit in accordance with O.M.B., Circular A-133, such an audit shall be an acceptable substitute for the audit required pursuant to these regulations.
- (l) "Closed enrollment" means instruction provided between an educator or educational service to a group or business on a private contractual bases, whereby public solicitation does not occur and the instructional provider is given a list of enrollees to train at no cost to the students.
- (m) "College" means (1) a unit of a university offering specialized degrees or (2) a postsecondary institution offering courses of study leading to traditional undergraduate college degrees. Some examples of traditional degrees are: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, and Bachelor of Fine Arts.
- (n) "Commission" means the Tennessee Higher Education Commission.
- (o) "Contact Hour" (clock hour) refers to actual directed or supervised instructional time, not to be less than 50 minutes for every 60 minutes of time.
- (p) "Credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers or words which signify, purport, or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution. ~~refers to educational credentials which include but are not limited to: certificates, diplomas, letters of designation, degrees, transcripts or any other papers generally taken to signify progress or completion of education / training at a postsecondary educational institution.~~
- (q) "Degree" means letters of designation or credential or a title from a postsecondary level program acceptable to and so authorized by the Commission and/or an accrediting body recognized by the U.S. Department of Education. Typically used in some form is the term 'associate', 'bachelor', 'masters' or 'doctor' in the credential designation.
- (r) "Diploma program" means a program of instruction offering technical and some basic course work. Some general or peripheral courses may be included. The program shall generally range for more than 500 contact hours but less than contact requirements for the Associates degree.
- (s) "Doctoral degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 90 semester hours or 135 quarter hours of graduate credit or equivalent.
- (t) "Enrollment" refers to those students who have completed the institution's application forms, submitted a financial deposit where required, and have actually attended one or more sessions of classes, or, in the case of home study programs, received one or more lessons.

- (u) "Educational service" means an individual or business established to provide services such as, but not limited to, a testing service, test preparation or a business that assists people in gaining academic credit for life experience, non-accredited courses or non-college training.
- (v) "General education courses" are general education core or academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student and give balance to the total program beyond the area of vocational or professional concentration,
- (w) "Independent certified public accountant" means a CPA not associated with the institution or its owners, especially in such a way that a conflict of interest or appearance of conflict arises.
- (x) "Institute" means a postsecondary institution offering courses of study and training not usually associated with traditional liberal arts degrees. Appropriate credentials awarded would include applied science degrees, certificates, and diplomas such as the Associate of Applied Science (A.A.S).
- (y) "Institutional director" means the institutional executive designated by the institution to assume responsibility for the conduct of the institution and its agents within these rules and the Act. Further, the institutional director will serve as the official contact for all business conducted between the institution and the Commission and maintain complete authorization files.
- (z) "Long Distance Learning" means a system and process that connects learners with distributed learning resources through delivery systems at a distance such as correspondence, video tape, audio tape, telecommunications, computer resources, computer network system or an electronic delivery system, where there is physical separation of the instructor and student.
- (aa) "Master's degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 30 semester credit hours or 45 quarter credit hours, or equivalent.
- (bb) "Non-exempt institution" means all postsecondary institutions not specifically exempted under provisions of T.C.A. §49-7-2004 of the Act or Section 1540-01-02-.05 of these rules and means all instructional sites which must have separate authorization unless, in the view of the Commission, the instructional locations are in sufficient proximity for facilitation of support services and administration.
- (cc) "Out-of-state", as applied to describe an authorized postsecondary educational institution, means an institution that maintains its primary campus in another state, but has physical presence in Tennessee.
- (dd) "Physical presence" means actual presence within the state of Tennessee for the purpose of conducting activity related to: a postsecondary educational institution; an educational service; dissemination of educational credentials; enrollment; solicitation or advertising. Physical presence as further outlined for purposes of authorization shall include but not be limited to:
 1. An instructional site within the state.
 2. Instruction within or originating from Tennessee designed to impart knowledge with response utilizing teachers, trainers, counselors etc., or computer resources, or computer linking (e.g. internet), or any form of electronic telecommunications;
 3. Dissemination of an educational credential from a location within the

state;

4. An agent, recruiter, institution or business that solicits for enrollment or credits or for the award of an educational credential;
 5. Advertising, promotional material or public solicitation in any form that targets Tennessee residents or uses local advertising markets in the state for institutions seeking, holding or required to hold a certificate of authorization.
- (ee) "Postsecondary education institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives. ~~means an entity which maintains a place of business within Tennessee, or solicits business in Tennessee, and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction or study are available through field instruction, classroom instruction or by long distance learning or both to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, service or industrial occupation, for a vocation, or for the award of an educational credential, except as excluded by the provisions of these rules and the Act.~~
- (ff) "Quarter" is a period of instruction into which the academic year may be divided. A quarter must consist of at least 10 weeks.
- (gg) "Quarter credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one quarter or two hours of laboratory experience per week for one quarter, or three hours of intern/externship experience per week or the equivalent number of hours.
- (hh) "Residence course" means a course in which the student comes to an institutional campus or instructional site as opposed to a course where the student stays at home (i.e. Long Distance Learning).
- (ii) "SACS Commission on Colleges" means the Commission of the Southern Association of Colleges and Schools which accredits degree-granting postsecondary institutions.
- (jj) "School" means (1) A unit within a college or university that offers specialized instruction (i.e., a school of engineering). (2) An institution that offers specialized instruction in areas (i.e., driving, modeling, basic travel training) not usually associated with college or university education. Appropriate credentials awarded would include certificates and/or diplomas. Institutions using the name of "school" do not usually offer degrees.
- (kk) "Semester" is a period of instruction into which the academic year may be divided. A semester must consist of at least 15 weeks.
- (ll) "Semester credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one semester or two hours of laboratory experience per week for a semester, or three hours of intern/externship experience per week or the equivalent number of hours.
- (mm) "Solicitation" means inducing or attempting to induce a resident of Tennessee to sign, at any off-campus location, an enrollment agreement to attend a

postsecondary educational institution.

- (nn) "Tuition" shall mean but not be limited to, any money or fee involving the student, actually charged or tracked as a bookkeeping item for instruction / training provided.
- (oo) "Unearned tuition" means at any given time, the total of refunds due former students, all tuition and fees that have or will be collected from students prior to graduation and which would be refundable pursuant to 1540-01-02-.17 of these rules, and any tuition and fees collected in advance from prospective students.
- (pp) "University" means a postsecondary institution that provides facilities for teaching and research, offers traditional undergraduate and graduate degrees at the baccalaureate and higher level, and is organized into largely independent colleges or schools offering undergraduate, graduate, and/or professional programs. Some examples of traditional degrees are: Bachelor of Arts, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, and Doctor of Education.
- (qq) "Vocational" in description of a program or institution means that which is organized primarily for job entry or upgrading of job skills that would result in a new job title or position.

1540-01-02-.05

Exemption.

- (1) T.C.A. § 49-7-2004 of the Act includes general descriptions of institutions and programs that are exempt from the provisions of the Act and these rules. Institutions and programs meeting the specific provisions below shall be considered exempt pursuant to the general exemption descriptions of T.C.A. § 49-7-2004. ~~In addition to institutions exempt by Tennessee Code Annotated, Chapter § 49-7-2004, the following institutions are exempt from the annual reporting and the provisions of these regulations:~~

- (a) ~~any entities offering e~~Education, instruction, or training that ~~are~~is:
 - 1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing without charge, which shall include taking a payroll deduction or requiring a minimum length of employment, except that the employer/institution may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by the Commission staff; or
 - 2. maintained or given by a U.-S. Department of Labor or state recognized labor organization, ~~without charge, (1) to its membership or apprentices;~~ or (2) without charge, except that the department or organization may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by the Commission staff; or
 - 3. financed and/or subsidized by public funds, without charge to the students, having a closed enrollment; or
 - 4. given under a contract agreement, having a closed enrollment, at no cost to the student and does not offer ~~degrees or~~ educational credentials ~~such as but not limited to diplomas or special certifications~~ that in the opinion of the Commission are specifically directed toward new or additional vocational, professional or academic goals.

- (b) Programs, seminars, or workshops that are recreational or avocational, including motivational or enrichment programs, as determined by the Commission staff shall be considered exempt from authorization requirements. Upon review by the Commission staff, a provider that presents the instruction in such a way as to suggest a vocational end may be required to become authorized, or clarify through public advertising that the program, seminar, or workshop is in fact recreational or avocational.
- (c) Short-term programs, seminars, or workshops that are solely for professional enhancement as determined by the Commission staff shall be considered exempt from authorization requirements. Education, training or instruction resulting in specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation.
- (d) Intensive review courses designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams. The latter shall include, but not be limited to, intensive review courses for certified public accountancy tests, insurance or securities licensure/registration, the examination for professional practice in psychology, and the bar examination.
- (e) Training designed to prepare students for credit-by-examination tests may be considered exempt from authorization requirements. The exemption is contingent on the entity's agreement to indicate in all promotional materials that the training is for test preparation for credit-by-examination tests and refrain from any misleading representations. Such misleading representations include:
 - 1. suggesting that the training results in receipt of an educational credential, such as a degree;
 - 2. listing anticipated salary amounts; and
 - 3. suggesting that the entity is accredited.
- (f) Eleemosynary institutions, including religious institutions, that:
 - 1. offer instruction or training and do not offer degrees of any type;
 - 2. do not suggest that postsecondary credit may be awarded by another party or transfer in educational credentials from another source; and
 - 3. do not offer diplomas/certificates that in the opinion of the Commission replicate letters of designation or degrees.
- (g) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers directly related to a sale of equipment or services are exempt from the provisions of authorization.
- (h) Businesses offering short-term computer training in common software or basic computer hardware that is intended for enrichment or professional enhancement are exempt from the provisions of authorization unless in the opinion of the Commission staff the courses using various software are offered concurrently toward a vocational goal.

- (2) ~~To operate within exemption status,~~ The following guidelines shall be used apply to determinations of exemption:

- (a) Institutions that clearly qualify as exemption under the Act ~~and/or~~ these regulations after the Commission staff review shall be considered exempt from authorization without a vote of the Commission.
- (b) ~~Institutional~~ Any institution or program exemption is subject to annual Commission staff review ~~and/or revocation any time the activity deviates from the original determination factors for exemption.~~
- ~~(c) Exemptions secured under this section of the rules are effective for each authorization year beginning on July 1, except as individuals or groups of institutions are notified prior to June 15 preceding any authorization year by a letter from the Executive Director of the Commission which shall state the bases for removal of any exemption.~~
- ~~(d) Exemptions~~ Any institution or program exemption can be revoked or amended by the Commission staff at any time that the basis for the exemption changes or no longer exists ~~as they pertain to individual institutions whenever it is determined by the Commission that an institution exempted by the Act or these regulations has not acted in accordance to the purpose of T.C.A. § 49-7-2002, 'Legislative intent'.~~
- (3) To request a determination of exemption, institutions shall submit a descriptive narrative explaining how the institution and/or program(s) qualifies for an exemption. The request shall include a citation to the exemption provision relied on in the Act and/or these rules and documentation supporting the requested exemption such as: ~~Institutions or educational providers seeking an exemption status (or not wanting to pursue authorization) that in the opinion of Commission staff do not clearly qualify under the exemption categories given in the Act and these rules will be required to complete an Exemption Request Form. The form shall include but not be limited to: copies of all institutional materials; brochures; advertising; state charter or business license; and organizational ties and/or contracts with other educational providers and a descriptive narrative of how the organization qualifies for exemption specifically citing the Act and/or rules. Upon receipt of an exemption request, the Commission staff shall make a written determination and provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten (10) business days after the date of the letter.~~
- ~~(a) Based upon the submitted material Commission staff shall make a written determination of institutional status. If the institution is aggrieved by that determination, the party may appeal in the manner provided by Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b).~~
- (4) If the institution is aggrieved by a determination concerning exemption status, the institution may seek review as provided for in Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b). Any request for review shall be in writing, signed, list each instance where the Commission staff erred, and provide a detailed explanation of each alleged error, including references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in paragraph (3).

1540-01-02-.07 Institutional Applications.

- (1) Application deadline:
- (a) Incomplete submissions as given below in Authorization - What Constitutes a Complete Application, or applications submitted after the established deadline may be deferred to the next quarterly meeting at the discretion of staff.

(b) Institutions that voluntarily or involuntarily defer an application before the Committee will have two additional Committee/Commission meetings to complete, correct and/or submit the application by that established deadline date. Failure to complete the application process in the established time extension will require a new application and loss of all previously paid fees.

1. Exceptions must be requested in writing and granted by the Executive Director.

(2) Authorization - What Constitutes a Complete Application:

(a) Prior to operation, which includes advertising, recruitment and solicitation, institutions seeking or required to hold an authorization must submit on forms provided by the Commission, a completed application which includes at least the following:

1. a title or name of the institution in compliance with these rules;
2. a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);
3. ownership and/or controlling officers;
4. address and general description of facilities;
5. list of instructional equipment for each program (owned or leased);
6. qualifications for instructional staff and supervisors;
7. designation of an institutional director for each site responsible for authorization contracts and maintenance of records and all other duties as described under Personnel and Instructor Qualifications (1540-01-02-.16);
8. definition of any administrative structure above the director with the signature of the official that will notify the Commission if the director is replaced;
9. a check or money order payable to the State Treasurer for Tennessee for such fees as prescribed under these rules;
10. institutional surety bond as described by rule 1540-01-02-.07 or as prescribed by T.C.A. §49-7-2013;
11. a copy of the enrollment contract or agreement described in these regulations;
12. a copy of the Enrollment Disclosure Standards (1540-01-02-.13) checklist if not incorporated within the enrollment agreement (contract);
13. information pertaining to institutional facilities ownership, length of any lease and time in present quarters. Information must include total square feet, available floor space for conducting programs, and subtotals for classrooms, offices, and library space (with number of volumes held). Instructional equipment (specify owned or leased) must be listed and described. Current verification of fire and sanitation inspections of educational facilities (and student housing owned by institution) must be filed as described in 1540-01-02-.07 of these rules;

14. a draft or copy of the institutional catalog (see 1540-01-02-.11);
 15. a complete description of the proposed educational programs in compliance with the Act and these rules;
 16. a complete syllabus for each course proposed that demonstrates sufficient content and depth for the proposed level of the program and credential offered;
 17. any specific requirements as outlined under degree granting and/or non degree granting sections of these regulations;
 18. if participating in federal student financial aid programs, a copy of the most recent audits or program reviews of such programs by any applicable non-profit, state or federal agencies, including, but not limited to, any student guarantee agency and the United States Department of Education;
 19. evidence of institutional financial stability as follows:
 - (i) sufficient finances to establish and conduct proposed operation;
 - (ii) audited financial statements consistent with generally accepted accounting principles and signed by a certified public accountant not associated with the institution or its owners;
 20. the balance sheet in the financial statement must reflect owner's (proprietorship, partnership, corporation, other, etc.) assets and liabilities.
- (3) Each application for a certificate of authorization or change of ownership must be signed by the applicant and signature(s) must correspond with required names on surety bonds. If the applicant is a partnership, all partners must sign. If the applicant is a corporation, it must be signed and certified by the president and secretary; all officers of the corporation must be listed.
 - (4) A separate application for authorization, which is site specific, must be made for each location located outside of reasonable walking distance from the main site. The Commission staff may make reasonable exceptions for narrow purpose, highly structured programs at multiple locations where, in view of the Commission, administrative requirements are limited and precise.
 - (5) The applicant institutional director must sign and date, on forms provided by the Commission, the director's intention to:
 - (a) conduct the institution in accordance with the Act and rules established by the Commission;
 - (b) advertise or solicit using institutional employees familiar with these rules;
 - (c) advise the Commission within a reasonable time in advance if the controlling officers change or the school ceases operation;
 - (d) notify the Commission of staff changes by forwarding staff information forms for new staff and informational letter for staff terminations;
 - (e) advise the Commission of any application to operate in another state (Tennessee institutions only);

- (f) sign significant operational documents (such as those vouching for accuracy of staff information, moral character, program revisions, etc.); and
 - (g) forward, if participating in federal financial aid programs, a copy of each audit of such programs by applicable state and federal agencies, applicable non-profit, state or federal agencies, including, but not limited to, the Tennessee Student Assistance Corporation and the United States Department of Education.
- (6) **Bond Requirements ~~for Institutions:~~**
- (a) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from a surety company qualified and authorized to do business in Tennessee, a continuous surety bond in the amount of:
 - 1. ten thousand dollars (\$10,000) for in-state institutions, out-of-state public institutions and all institutions providing primarily religious instruction, and
 - 2. twenty thousand dollars (\$20,000) for all other institutions, including out-of-state private institutions.
 - (b) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the amount of five thousand dollars (\$5,000) per agent from a surety company qualified and authorized to do business in Tennessee with the institution as principal.
 - (c) Bonds provided by institutions must be site specific.
 - (d) An irrevocable letter of credit secured by a certificate of deposit or a cash deposit with a bank may be accepted in lieu of the bond pending approval of the Commission staff. Such deposits are subject to the same terms and conditions provided for in the surety bond requirement under this regulation.
 - ~~(a) Institutions not exempted from surety bond provisions, must on forms provided by the Commission, secure for student indemnification purposes, from an insurance company licensed in Tennessee, a surety bond for the penal sum of \$10,000 for in-state institution and \$20,000 for out-of-state education institution, including branch campuses as specified in T.C.A. 49-7-2013, except as follows:~~
 - 1. ~~In-state institutions with substantially less unearned tuition or student exposure than \$10,000 may post a surety bond equal to 125% of the maximum unearned tuition or student exposure rounded upward to the nearest thousand dollars (prior written administrative agreement by the Commission staff is required).~~
 - ~~(7) Out of state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of \$5,000 per agent from a surety company authorized to do business in Tennessee with the applicant institution as principal. Such applications must be accompanied by verification by the issuing agency that the individual seeking a permit is covered by a \$5,000 surety bond.~~
 - ~~(8) Bonds provided by institutions under Section 1540-01-02-.07(7) must be accompanied by the name, office address, and phone number of the issuing insurance company representative and the bond must be site specific.~~
 - ~~(9) Bonds provided by institutions under Section 1540-01-02-.07(7) must be identified on the top half of the first page by the name and the address of the institution. Bonds and verification of bonds should be forwarded to the Commission by institutional directors, and not directly from issuing companies.~~

~~(10) Certificates of deposit or a cash deposit with a bank may be accepted in lieu of the bond with approval of the Commission staff. Such deposits are subject to the same terms and conditions provided for in the surety bond requirement under this regulation.~~

(447) Fire and Sanitation Inspections:

- (a) Applicant institutions must secure, from appropriate local agencies, documentation that fire and sanitation codes are met by the proposed instructional facilities. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
- (b) Tennessee institutions seeking initial authorization and renewal must maintain documentation in their authorization records that a fire and sanitation inspection has been successfully passed during the past twelve months and, further, the institution must notify the Commission of the most recent inspection dates as part of the renewal application. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
- (c) Out-of-state institutions must forward to the Commission a copy of fire and sanitation inspection reports and these reports must be made at least every twelve months.
- (d) Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.

(428) New Ownership / Change in Ownership:

- (a) The following constitutes new ownership:
 - 1. in the case of ownership by an individual, when more than 50% of the institution has been sold or transferred;
 - 2. in the case of ownership by a partnership or a corporation, when more than 50% of the institution or of the owning partnership or corporation has been sold or transferred;
 - 3. when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the institution.
- (b) A person or persons purchasing an institution authorized to operate shall comply with all the requirements for securing an initial, new authorization including new program applications for each program. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s), and all other instruments necessary to transfer ownership of the institution shall be submitted to the Commission.
- (c) In the event of a change of ownership, a new owner or governing body must notify the Commission within 10 days after the change in ownership and request from the Executive Director conditional authorization to operate until temporary authorization can be acquired under standard established procedure by recommendation of the Committee for Postsecondary Educational Institutions and affirmative vote of the Commission.
- (d) The sale or transfer of ownership interest after the death of an owner of an institution to either a family member or a current stockholder of the corporation is not considered a change in ownership, and the executive director may determine that other transfers should also be excluded from these requirements.

(139) New Program or Change in Program:

- (a) Vocational program names and objectives must generally coincide with or be equated with the *Dictionary of Occupational Titles* published by the U.S. Department of Labor and/or the *Classification of Instructional Programs* published by the U.S. Office of Education, National Center for Education Statistics.
- (b) New institutions proposing to offer programs similar to those conducted by Tennessee institutions under the Tennessee desegregation plan must submit a description of the anticipated effect of the proposal on the racial composition of higher education institutions in Tennessee.
- (c) New institutions must submit a rationale with supporting data to justify initiation of programs proposed.
- (d) Authorized institutions must submit to the Commission a supplementary application if additional programs are proposed during any authorization year and the program must be authorized prior to operation, which includes advertising or solicitation. Applications must be received by the quarterly deadline established by Commission staff to be included on the ensuing Committee and Commission agenda.
- (e) Ongoing institutions that make changes to an existing program(s) previously approved by the Commission must file a New Program Application if program changes exceed 25% in one calendar year, or if in the opinion of staff a significant change has occurred. Changes of less than 25% should be reported by letter as a file item to the Commission detailing changes made. All changes must be reflected in the institutional catalog.
- (f) Institutions shall not arbitrarily add a course or courses to an existing program in which a student would incur additional time and expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to: demonstrated educational necessity; a reasonable program completion period had elapsed; state approval agencies; recognized accrediting agencies or for requirements of professional certifications or licenses. Under approval conditions, the institution shall provide written notification to the Commission and give adequate notice to all students affected prior to any change.

(1410) New Location / Change of Address:

- (a) An application from an authorized institution to reflect a new location shall be filed and include all documents designated by the Executive Director as being necessary with the appropriate fee. Documents shall include but not necessarily limited to: (1) evidence of satisfactory health inspection, (2) evidence of satisfactory fire inspection, (3) all physical material and building requirements given under Initial Authorization. Approval may be issued after the new facilities have been inspected and the application is complete. If a move is beyond 10 miles and a student is prevented from completing the training at the new location as determined by the Executive Director, a full refund of all moneys paid and a release from all obligations will be given to the student or loan holder.

1540-01-02-.08

Regulations For Specific School Types.

- (1) General:

- (a) Institutions offering programs of legal interest to other state agencies must, if directed by the Commission, provide information necessary for the dual review of the program. (For example, any institution proposing a teacher education program for the purpose of teacher licensure must also be reviewed by the State Board of Education).
- (b) Authorized institutions that promote, advertise or use prepared materials of any entity that offers vocational / professional certifications (that are not part of the school's authorized educational credential) or certification exams, (e.g. national certifying exam for Phlebotomy) must demonstrate to the Commission clear benefit to the students prior to usage. The Commission upon review may rule to:
 1. allow promotion and usage because of benefits to the student;
 2. allow promotion and usage but with clear disclosure to the students with language such as, 'this certification is voluntary and is not required for employment in the state of Tennessee' or 'this certification is voluntary and is not necessarily used as a standard of recognition for employment within the industry;
 3. deny usage. (see Prohibitive Acts 1540-01-02-.18).
- (c) Unauthorized institutions that promote, advertise or use prepared materials of any entity that offers vocational/professional certifications may be required to become authorized for such activity.
- (d) Institutions must adhere to all copyright laws and observe intellectual property rights in conducting the school.
 1. Using video tapes or other forms of telecommunication as a large portion of the contact hours in a program or on a per class basis for the purpose of granting educational credit, must have implied consent by purchase or the written consent of that instructor and/or the institution that produced the educational material, prior to incorporating them into the curriculum.

(2) Non Degree Granting Institutions:

- (a) Non-degree programs which are designed primarily for job entry or upgrading of skills must be described in clock (contact) hours.
- (b) Non-degree programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect outcomes.
 1. Institutions must provide a minimum program length that adequately prepares students for entry level employment.
 2. Program lengths that exceed standard or currently acceptable times or program periods established by regulations and/or statues must justify expansion of training in terms of exceptional student benefits. Such programs may also be required to review curriculum to evaluate consolidation of classes and course material.

(3) Degree Granting Institutions:

- ~~(a) — New institutions seeking authorization to offer degrees in the state of Tennessee or new program applications for a degree program must submit the application by the deadline date established by Commission staff, which shall be 45 to 60 days~~

~~prior to the quarterly meeting of the Committee on Postsecondary Educational Institutions.~~

- (ba) All degrees offered must be approved by name and designation by the Commission. No institution may offer traditional liberal arts degrees or professional degree designations such as those given in the definitions under "college" and "university" unless previously approved by a recognized regional accrediting body.
1. An exception may be approved by the Executive Director upon recommendation of Commission staff.
- (eb) Authorization to offer any degree in the state will require either institutional accreditation as defined in these regulations or authority to grant degrees by affirmative vote of the Commission. Accredited institutions shall be deemed during initial authorization to have met the minimum requirements to offer degrees.
- (ec) Non accredited institutions seeking authority to grant degrees in the state must meet in addition to the requirements in these regulations for temporary or regular authorization, the additional fee as given in these regulations and demonstrate compliance with, but not limited to the following standards:
1. the operation shall incorporate instructional procedures, texts and materials appropriate to the purpose, curriculum and standards of postsecondary degree granting institutions offering similar programs in the state;
 2. 25% of the total program must be in general education courses and should be indicated separately in the curriculum presented;
 3. a syllabus for each course offered;
 4. library resources and holdings that shall contain up-to-date titles, be available and accessible to all enrolled students and commensurate with the proposed degree level;
 5. demonstration that the degree and the program has merit and value academically, professionally or vocationally in Tennessee;
 6. master and doctorate level degrees must demonstrate in the curriculum and outcomes increasing levels of critical, analytical and interpretive thinking, use of primary documents or resources and independent research skills.
- (ed) Undergraduate degree programs must include at least twenty-five percent of the program in general education courses unless the institution can demonstrate program accreditation requirements which are lesser or for a non accredited institution offering or proposing an associate degree level, demonstrate to the Commission that because of the occupational/technical nature of the program that a student would not benefit in the job from general education courses and demonstrate the need to use that 25% of the program for job skills courses. All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent of the general education staff with earned master's degrees or equivalent.
- (fe) Graduate degree programs, in addition to staffing and study time requirements in these rules, must provide experienced research staff to direct graduate research papers, provide a program of sufficient length and arrangement to facilitate

student to student and student to staff exchange of ideas, provide appropriately credentialed staff in collateral areas, and provide access to a wide range of current reference materials in the subject field.

(gf) Degree program admission policies must be at least the following:

1. undergraduate degrees must require a high school diploma or equivalency, and
2. graduate degrees must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.

(4) Long Distance Learning:

- (a) Required authorization of long distance learning institutions shall be reviewed based upon Commission staff evaluation of physical presence. Computer networks or other electronic delivery systems or other forms of long distance learning that might have institutional components in multiple locations outside of this state will be reviewed based upon origination of but not limited to any of the following from Tennessee: instruction, institutional administration or issuance of an educational credential.
 1. No ruling by the Commission regarding authorization or exemption of a long distance learning provider will be interpreted to limit review by any other state agency concerning issues of consumer protection and disclosure.
- (b) All authorized long distance learning institutions must provide a printed catalog, enrollment disclosure statement and a contract as required in these regulations. Institutions that enroll students by means such as computer network or telecommunications must provide evidence that the student has acknowledged receipt of the required information.
- (c) Home study or long distance learning institutions must meet directly and indirectly all requirements of the Act and these regulations and must seek authorization for a specific location, assign specific administrative responsibilities at each separately authorized site to a director for adequate and appropriate staffing to serve the stated purpose and to make reports as directed by these rules, and as requested by the Commission staff.
- (d) Long distance learning courses or programs must consist of at least the following:
 1. a preliminary lesson or set of instructions on how to study by the home study method, or adequate study instructions per assignment;
 2. current and accurate text or lesson materials; and
 3. instructional service or individualized feedback on each unit assignment which must be based on examination questions or problem assignments which thoroughly stress the important phases of the subject presented.
 4. demonstration that instruction in each course including general education courses is presented by a qualified instructor(s), and that required student evaluation or feedback for each course or lesson is also by a instructor qualified in that specific course or subject matter area.

5. evidence that adequate library or research resources are available to all students that may enroll appropriate to the type and level of the educational program and credential offered.
 6. educational goals and overall program goals are achievable through long distance learning and that graduates of distance education exhibit skills and knowledge equivalent to resident programs of a similar nature.
- (5) Bartending Schools:
- (a) Pursuant to TCA §49-7-115, all schools involved in training in the areas of management, operation, procedures or practice of dispensing alcoholic beverages or bartending shall include instruction in the problems of alcohol abuse and the effect of alcohol consumption on highway safety.
- (6) Truck Driving (CDL) Schools:
- (a) Authorized truck driving schools may advertise in the 'help wanted' section of the newspaper classifieds provided that the advertisement adheres to all other regulations given in 1540-01-02-.20 and within the advertisement it clearly indicates with specific language that this is a "school advertisement", "advertisement for training" or a "training opportunity with [school's name]".
 - (b) Advertisements may refer to truck lines or carriers by name with the written permission of that company and use language such as "training agreement with", "training contract with" or "exclusive training for [carrier's name] in Tennessee". If a school mentions or alludes to multiple training agreements with carriers, the advertisement must give a specific number and have prior approval from Commission staff. All claims related to carriers must be documented and on file at the school.
- (7) Modeling Schools:
- (a) Modeling schools that also operate a placement or talent agency must maintain clear separation in function and advertising the agency from the school.
 - (b) Talent seminars, interviews or 'talent searches' may not be used to enroll individuals in modeling schools or training.
 - (c) Schools that operate as a 'finishing school', exclusively for personal deportment or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.

~~(8) Computer Training:~~

- ~~(a) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers (closed enrollment) directly related to a sale of equipment or services are exempt from the provisions of authorization.~~
- ~~(b) Businesses offering short term computer training in common software or basic computer hardware that is intended for enrichment or professional enhancement are exempt from the provisions of authorization unless in the opinion of the Commission courses using various software are offered concurrently toward a vocational goal. (e.g. word processing software offered toward secretarial goals).~~
- ~~(c) Businesses offering specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation of that training in the state.~~

(98) Teacher Training (K-12) or Licensing or Recertification:

- (a) The Tennessee State Board of Education or the Commission may request a dual review of any institution or business with physical presence in Tennessee offering courses related to but not limited to teacher (K-12) licensing, recertification or career ladder. For accredited institutions with teacher education programs using long distance learning (but using targeted direct mail advertising), the Commission may grant a waiver for authorization if State Board of Education or a local public school district has accepted, endorsed or approved for graduate credit transfer any portion of the program. Such a waiver shall not be granted for any institution outside of the provisions stated above and may be individually retracted if in the opinion of the Commission the advertising is misleading regarding outcomes or credits earned.

~~(10) Seminars / Workshops:~~

- ~~(a) Seminars or workshops of short duration that are motivational, enrichment, recreational, avocational or solely for professional enhancement as determined by Commission staff shall be considered exempt from authorization requirements.~~
- ~~(b) Upon review by Commission staff a seminar/workshop provider regardless of length that presented the instruction in such a way to suggest a vocational end may be required to become authorized in the state, or clarify through public advertising that the seminar/workshop is in fact enrichment or recreational.~~

1540-01-02-.11 Institutional Catalog.

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided for original application) which must include at least the following information;
 - (a) the name and address of the institution;
 - (b) identifying data, such as catalog number and publication date;
 - (c) table of contents;
 - (d) names of owners and officers, including any governing boards, and faculty with credentials for position;
 - (e) the institutional calendar, including holidays, enrollment periods and the beginning and ending dates of terms, courses, or programs;
 - (f) the institutional enrollment procedures and entrance requirements, including late enrollment, if permitted;
 - (g) the institutional attendance policy including minimum attendance requirements, and the circumstances under which a student will be interrupted for unsatisfactory attendance and the conditions under which a student may be readmitted;
 - (h) the institutional policy covering satisfactory progress with an explanation of any grading system used and a description of any probation policy and a description of the institutional system for making progress reports to students;
 - (i) the institutional policy regarding student conduct, including causes for dismissal and conditions for readmission;

- (j) a description of each program offered including objectives, costs, length, program components or course requirements, or in the case of correspondence instruction, the number of lessons;
- (k) a description of the placement assistance available and, if none, so state;
- (l) a description of the facilities and equipment used for educational programs and the address of training site;
- (m) the policy concerning credit granted for previous education, training, and experience and, if none, so state;
- (n) the refund and cancellation policy which must describe the procedure for determining the official date of termination;
- (o) in catalogs (except for out-of-state degree-granting institutions which choose to make no reference to the Commission) which describe educational programs conducted in Tennessee and with enrollment contracts used by programs outside of Tennessee, a statement provided within the first four pages of the catalog and on the signature page of enrollment contracts, which must read as follows:

The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed each year and is based on an evaluation by minimum standards concerning quality of education, ethical business practices, health and safety, and fiscal responsibility;

- (p) a description of the student grievance procedure, a listing of the title, address, and telephone number of the institutional employee(s) designated to receive student complaints. If the institution used a mediation clause in its enrollment agreement, the catalog must describe the steps required of the student and/or the institution to initiate the mediation process. The address and telephone number of the licensure staff of the Commission must be in the catalog for grievances not settled at the institutional level;
- (q) specific information pertaining to transferability of credit earned to another institution, with language sufficient to describe limitations on transfer of credit. Institutions have a responsibility to advise potential enrollees that transfer of credit is controlled by the receiving institution and that accreditation does not guarantee transferability. Suggested language is as follows:

"(name of institution) is a special purpose institution. That purpose is (fill in mission statement). This purpose does not include preparing students for further college study. Students should be aware that transfer of credit is always the responsibility of the receiving institution. Whether or not credits transfer is solely up to the receiving institution. Any student interested in transferring credit hours should check with the receiving institution directly to determine to what extent, if any, credit hours can be transferred."

(r) the cash discount policy, if offered to students.

- (2) Use of supplemental pages must be done in a way as to ascertain that supplemental pages become an effective part of the catalog and must show an effective date and be presented to students prior to enrollment or payment of fees;
- (3) Catalogs should be written in a way and at a level which enables prospective enrollees to make informed decisions; and

- (4) Lesser information requirements may be included in the institutional catalog or brochure when the applicant can satisfactorily demonstrate to the Commission that some of the above are not applicable.
- (5) Full time students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.

1540-01-02-.13 Enrollment Agreements and Disclosure Standards.

- (1) Accredited institutions that provide and administer a Title IV financial assistance program and grants will follow federal disclosure guidelines. Such institutions will not be required to duplicate any state disclosure item if that disclosure is part of federal or accreditation standards.
- (2) Institutions prior to enrolling an individual shall require the prospective student to sign and date a form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list verifying that the student:
 - (a) toured the institution;
 - (b) received an institutional catalog;
 - (c) was given the time and opportunity to review the institutional policies in the catalog;
 - (d) knows the length of the program for full time and part time students in academic terms and actual calendar time;
 - (e) has been informed of the total tuition and fee cost of the program;
 - (f) has been informed of the estimated cost of books and any required equipment purchases such as a stenography machine, computer, specialized tools, art supplies etc.;
 - (g) has been given a copy of the institutional cancellation and refund policy;
 - (h) understands what 'transferability of credits' means and the specific limitations (if any) should the institution have articulation agreements;
 - (i) knows of their rights in a grievance situation including contacting the Tennessee Higher Education Commission by including on the form a statement in the following format:
 - 1. A statement: "I realize that any grievances not resolved on the institutional level may be forwarded to the Tennessee Higher Education Commission, Nashville, TN 37243-0830, (615) 741-5293."; and
 - (j) has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).
- (3) Also included in the enrollment contract or pre-enrollment checklist, shall be the most recent withdrawal, completion and in-field placement data as calculated by the Commission by including:
 - (a) The following statement: "For the program entitled, (program name), I have been informed that, for the July (year)/June (year) period, the withdrawal rate is (percent)%, the completion rate is (percent)%, and the in-field placement rate is (percent)%. Detailed statistical data for this program may be viewed by going to

www.tn.gov/thec and clicking on the Authorized Institution Data button." or

~~(b) A copy of the report created for the institution by the Commission staff and a statement that "the report can be viewed by going to www.tn.gov/thec and clicking on the Authorized Institution Data button.", shall be documentation that the student received graduation placement data exactly as presented to the Commission during the last reauthorization cycle in the following format:-~~

~~(a) A statement: "For the program entitled _____, I have been informed that the current withdrawal rate is __%, or in the past 12 months ___ students enrolled in this program and ___ completed this program."~~

~~(b) A statement: "For the program entitled _____, I have been informed that for the students who graduated, the job placement rate is __%, or in the past 12 months ___ were placed in their field of study out of ___ students who graduated from this program."~~

- (4) Liberal arts schools or professional schools that typically do not report vocational placement data may request a waiver of 1540-01-02-.13(3) above.
- (5) An enrollment contract shall include but not be limited to:
 - (a) full and correct name and location of the institution;
 - (b) name, address and social security number of the student;
 - (c) date training is to begin and program length;
 - (d) full-time or part-time status of the student;
 - (e) projected date of graduation/completion as a full-time or part-time student;
 - (f) program title;
 - (g) total cost of the program, including itemized separate costs for tuition, fees, books and any required equipment purchases;
 - (h) cancellation and refund policy;
 - (i) verification that the student has received an exact signed copy of the agreement.
- (6) Institutions shall contractually guarantee total cost of tuition for 1200 contact hours or one calendar year from the time of enrollment for full and part time student.
- (7) Programs less than 1200 clock (contact) hours must have a an enrollment contract with a set total tuition.
- (8) Programs longer than 1200 clock (contact) hours that increase tuition cost after the initial 1200 hours or one year period, must provide counseling related to the tuition increase.
- (9) Tuition increases that in the opinion of the Commission are excessive, unreasonable and exceeds initial disclosure to the student may result in an in depth audit of the institution at the school's expense to assure the Commission of financial stability.

1540-01-02-.14

Financial Standards.

- (1) Institutions administering Title IV financial assistance programs will maintain all required guidelines and standards.

- (2) The Commission and its staff may share information with the Tennessee Student Assistance Corporation and other state and federal agencies as appropriate.
- (3) The institution shall maintain financial and business practices in line with common business procedures utilizing standard accounting practices.
- (4) The institution shall maintain and be prepared to demonstrate financial resources adequate to meet the following:
 - (a) facility maintenance and overhead;
 - (b) staff and faculty payroll;
 - (c) books, supplies and / or equipment utilized by students;
 - (d) general operating costs including printing and advertising;
- (5) Institutions shall be able to demonstrate annual financial planning through a budget. New degree granting program schools must establish financial planning that reflects at least a three year plan which includes anticipated income and expenses.
- (6) All authorized institutions must file each year the most recent audited financial statement, certified by an independent certified public accountant for the most recent institutional fiscal year subject to the following:-
 - (a) ~~For multi-campus institutions, or for i~~ Institutions owned by ~~one the same~~ parent company may submit, an audited consolidated corporate financial statement ~~shall be routinely required~~. The staff, Committee, or Commission, however, may request additional campus or institution specific information where needed to protect the public interest. ~~The audited income statement must be compiled for each institution, or group of institutions owned by the same company, authorized to operate under the Act;~~
 - (b) ~~T~~he balance sheet must reflect owner's (proprietorship, partnership, corporation, or other) assets and liabilities. ~~In the preparation of these statements, it should be noted that goodwill is not generally considered a current asset unless it is being amortized;~~
 - (c) ~~R~~elated parties must be disclosed, including related party footnotes, debt agreements with owners, and supplemental footnotes on separate campuses or branches are expected.
 - (d) ~~I~~t should be noted whether or not tuition revenue is recognized up front or on a pro rata basis. ~~Current financial statements on each site separately authorized under the Act must be filed annually.~~
 - (e) Within ~~five~~ three years from initial temporary authorization, neither the ratio of current fund revenues to current fund expenditures nor the ratio of current assets to liabilities, both site specific and corporate, where applicable, shall be less than 1:1, without convincing explanation.
 - (f) Institutions that have annual gross tuition revenue of one million dollars (\$1,000,000) or less may request a waiver, by the established deadline, of the audit contemplated by this section and provide the most recent financial information in a format acceptable to on forms provided by the Commission staff.
- ~~(7) The institution must submit an operating statement and balance sheet to the Commission within four months of the end of the institutional fiscal year. In addition, if a regular or~~

~~certified audit is available, it should be submitted within four months of the end of the institutional fiscal year as well.~~

- (87) At any time, the Commission may require a certified audit of the institution when there are questions about the institution's financial stability.
- (8) All institutions seeking authorization must maintain a business account with a financial institution that is federally insured in said institution's name.

1540-01-02-.16 Personnel and Instructor Qualifications.

- (1) Institutions must provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. As further described below, personnel qualifications must be submitted to the Commission staff on a School Personnel Application no later than ten (10) days after the hire date.
 - (a) Unaccredited institutions must submit to the Commission staff School Personnel Applications for all instructors and administrative personnel as that term is defined in this rule.
 - (b) Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to the Commission staff School Personnel Applications for all administrative personnel as that term is defined in this rule. For each instructor, an accredited institution shall maintain on-site documentation that demonstrates the minimum qualifications and must submit such documentation and a School Personnel Application at any time upon request from the Commission staff.
- (2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon request from the Commission staff.
- (23) The method of administration and procedure for staff selection must be defined in a way that each employee has specific duties and responsibilities.
- (34) Administrative personnel generally encompasses individuals that oversee areas as outlined in operational and administrative standards. This includes by function, but is not limited to titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff is not included as administrative personnel, but shall be included for reporting purposes on re-authorization forms annually.
- (45) Administrative personnel at authorized institutions must be graduates of an accredited college or university or have sufficient background and training in his/her area of responsibility.
- (56) Each institution must designate one person as the institutional director, who is responsible for the institution's program, the organization of classes, maintenance of the institutional facilities, maintenance of proper administrative records, signing documents pertaining to authorization and all other administrative matters related to authorization.
- (67) Institutional owners or the controlling board must ensure that each authorized site has a institutional director on that location for at least 50% of the operational time each week the school has students present unless other provisions have been approved by the Commission staff.

- (78) The institutional director implicitly accepts knowledge of and responsibility for compliance with the Act and these regulations including but not limited to advertising, records, contracts, required benchmarks, annual deadlines and fee payments.
- (89) The institutional director at authorized institutions must be a graduate of an accredited college or university with at least one year experience in administration, institutional management, or the total years of administration/institutional management experience/higher education shall equal at least five years.
- (910) Directors of authorized institutions must maintain on site a separate current copy file of materials filed with the Commission as part of their current authorization which includes the application, documentation of appropriate bonding, financial reports, agent permit documentation, and fire and safety reports.
- (1011) If the institution employs a director of education, that director shall meet the same requirements as an instructor as specified in these rules and shall also have either one year supervisory experience or a relevant post-bachelor's degree.
- (112) Instructors:
- (a) Instructional staff for all institutions must be selected at a minimum on the basis of ~~credentials demonstrably higher, on the basis of experience and training, than the level to be taught~~ these rules.
 - (b) Instructors in a ~~trades~~ related or specific skill areas must have documented proficiency and practical applied experience in that trade or skill.
 - (c) An instructor must hold the appropriate certificate, license, or rating if the subject is a trade requiring certificate, license, or rating.
 - (d) An instructor must be qualified by education and experience/background ~~demonstrably higher than the level to be taught~~ and must meet the following qualifications as minimum requirements:
 1. Minimum for doctorate level:
 - (i) Hold a doctorate degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a doctorate degree with a major or concentration in the subject area to be taught; or
 - (II) a doctorate not in the subject area but with a minimum of one year of practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours of doctoral level courses in the subject.
 2. Minimum for masters level:
 - (i) Hold a masters or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a masters or higher degree with a major or concentration in the subject area to be taught; or
 - (II) a masters or higher degree not in the subject area but with a minimum of one year of demonstrated practical

experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in graduate level courses in the subject.

3. Minimum for a baccalaureate level:

- (i) Hold a baccalaureate or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a baccalaureate or higher degree with a major or concentration in the subject area to be taught; or
 - (II) a baccalaureate or higher degree not in the subject area but with a minimum of one year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in the subject. Additional years of documented experience in the subject area may be substituted for semester / quarter hour requirements.

4. Minimum for an associate level:

- (i) Meet the minimum requirements for doctorate, masters or baccalaureate level; or
- (ii) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
 - (I) an associate degree with a concentration in the subject to be taught and (1) one year of practical experience; or
 - (II) an associate degree not in the subject area but with a minimum of two (2) years of practical experience within the last five (5) years in the subject area to be taught and satisfactory completion in a postsecondary educational institution of nine (9) semester hours or twelve (12) quarter credit hours in the subject area to be taught. Additional years of documented experience in the subject area may be substituted for semester / quarter hour requirements.

5. Minimum for diploma and certificate level:

- (i) Meet the minimum requirements for doctorate, masters or baccalaureate or associate level; or
- (ii) Hold a high school diploma or GED and a certificate of completion from a postsecondary institution judged to be appropriate by the Commission in a relevant subject area and a minimum of three (3) years of practical experience within the last seven (7) years in the subject area to be taught. Additional years of documented experience in the subject area may be substituted for the postsecondary educational requirements.

~~(12) — Evidence of qualifiable education, experience, or training (including official transcripts) for each instructor must be maintained on-site at the location.~~

- (13) The Executive Director may approve a variance from these specific qualifications in paragraph (12) with sufficient justification and an assurance that the program quality will not be lessened. In such a situation the institutional director must submit written justification and documentation with the ~~personnel form~~ School Personnel Application submission. In addition the instructor must be institutionally evaluated at the close of the first instructional period for effectiveness and quality. This evaluation shall be made available to the Commission staff upon request.
- (14) Instructors shall be evaluated at least annually by students, as well as the director or chief academic/instructional officer, and the institution shall have on file at the campus evidence of such evaluations.
- (15) ~~Agents and Recruiters:~~
- (a) ~~Institutional a~~Agents as defined by the Act and ~~these regulations~~ Rule 1540-01-02-03 must submit an Agent Permit aApplication, ~~on forms as~~ provided by the Commission staff, and must receive approval ~~have authorization~~ and an agent permit from the Commission staff ~~and secure the appropriate bond~~ prior to any solicitation. The ~~applicant application~~ must be accompanied by the following:
1. ~~new applicants must forward~~ recommendations by two (2) reputable persons certifying that the applicant is of good character and reputation;
 2. a check payable to the State Treasurer of Tennessee as required under these regulations;
 3. a surety bond ~~of \$5,000 per agent of an out-of-state institution or as specified in~~ Rule 1540-01-02-.07 ~~of these rules;~~ and
 4. certification by the institutional director that the applicant will be directed to act in accordance with these regulations.
- (b) Agent permits must be renewed every year. The expiration date of a permit is one (1) year from the date of issue or immediately upon termination of employment whichever occurs first.
- (c) Agents must have separate permits to represent separate institutions unless the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required. ~~Agents must have separate permits to represent separate institutions unless they are commonly held. Mutual agreement by institutions is required.~~
- (d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.
- (e) Institutional directors, not marketing offices, are responsible for actions of agents.
- (f) The agent shall be under the control of the institution, and the institution is responsible for any representations or misrepresentations, expressed or implied, made by the agent.
- (g) Any student solicited or enrolled by a non-licensed agent is entitled to a refund of all moneys paid and a release of all obligations by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent shall be may be null and void and unenforceable at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the

contract has been fully executed between the institution and the student, the student would not be entitled to a refund solely because he or she was solicited by a non-licensed agent.

- (h) An agent is prohibited from inappropriate activities in procuring enrollees including, but not limited to the following:
 - 1. administering the admission test;
 - 2. advising students about financial aid other than informing the student of the general availability of financial assistance;
 - 3. giving false, misleading, or deceptive information about any aspect of the institution's operation, job placement, or salary potential;
 - 4. representing that a program has sponsorship, approval, characteristics, uses, benefits, or qualities which it does not have;
 - 5. soliciting enrollments in a program which has not been approved by the Commission.
- (i) An agent must display the current permit to all prospective students and other interested parties.

1540-01-02-19

Fair Consumer Practices and Student Complaints.

- (1) All institutions authorized by the Commission and their representatives shall be required to operate in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the school are accurate, such that students can make appropriate decisions concerning their investment of time and money.
- (2) Fair consumer practices means honesty, fairness and disclosure to students in the areas of: recruitment, admissions, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance and job placement rates, advertising, refund policies, the meaning and recognition of different types of accreditation, the transferability of the institution's credits to other postsecondary schools and also includes misrepresentation concerning competitor schools.
 - (a) Information regarding fair consumer practices shall be included in the institution's usual publications such as the catalog and school brochures and must always be provided by institutional recruiters and agents.
 - (b) Accredited institutions may apply accreditation standards of fair consumer practices.
- (3) Findings by Commission staff and/or ongoing complaints by current or prospective students that show a pattern of misinformation, misrepresentation, lack of disclosure or discrepancies between verbal and written information, intimidation or coercion may require corrective public announcements or in the opinion of the Commission significant deviation from fair consumer practices may result in penal fines and/or conditional authorization or revocation of agent or institutional authorization.
- (4) Institutions authorized under these rules must report to the Commission in writing within 30 working days any unresolved written complaints about their operation of which they are knowledgeable (including media accounts of complaints). Such complaints shall be resolved or determined to be irresolvable by the institution within 30 working days of the receipt of the written complaint at the Commission offices. Complaints shall be

considered as a factor in the decision when authorization to operate or continue in operation is sought.

- (5) Institutions may provide a discount for cash payments provided:
 - (a) the institution has a written policy in the catalog that includes the definition of cash and details the qualifications for receiving and the amount of a cash discount; and
 - (b) the student verifies receipt and understanding of the policy in the pre-enrollment checklist.
- (6) An institution may award a scholarship, tuition waiver, or other similar award provided:
 - (a) the criteria for receiving the award are clearly defined in writing;
 - (b) the institution has a form and procedure to verify eligibility; and
 - (c) the amount of the award is a flat dollar amount or subject to calculation using a defined formula or scale.

1540-01-02-.26 Return of Regulatory Fees

- (1) Following the year-end closing, the Commission shall return to authorized institutions as described herein any reserve balance as of the end of the fiscal year that is greater than two million dollars (\$2,000,000).
 - (a) No moneys shall be returned if the amount due an institution is less than twenty-five dollars (\$25.00).
 - (b) The percentage of the excess due an institution is calculated by determining the percentage paid of the total reauthorization fees collected during the fiscal year.
 - (c) Institutions that did not pay a reauthorization fee during the fiscal year shall not receive any share of the excess.
 - (d) Institutions that close or that have had their authorization to operate revoked prior to the end of the fiscal year shall forfeit any share of the excess.
- (2) At the request of an institution a refund will be made as follows:
 - (a) If an institution withdraws a pending application within three (3) working days from receipt or prior to the start of Commission staff's review, then all fees assessed shall be refunded.
 - (b) If an institution withdraws a pending application more than three (3) working days from receipt and once Commission staff review begins, the Commission may retain fifty percent (50%) of the assessed fees.
 - (c) Once Commission staff's review of a pending application is complete or a site visit has been conducted, the Commission may retain one hundred percent (100%) of the assessed fees.
 - (d) Institutions that fail to complete the application process described in Rule 1540-01-02-.07(1)(b) shall forfeit all fees paid.
 - (e) Any other fee collected is nonrefundable once the Commission staff has

performed the associated review or work related to that fee.

* 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)
Mr. Charles W. Bone	X				
Mr. Randy Boyd	X				
Mr. Evan Cope, Vice-Chair	X				
Mr. Robert Fisher	Non-Voting Member	Non-Voting Member	Non-Voting Member		
Mr. Tre Hargett				X	
Ms. Sharon L. Hayes	X				
Mr. Adam Jarvis	X				
Mr. Cato Johnson, Chair	X				
Ms. Pam Koban	X				
Mr. Jon Kinsey, Vice-Chair				X	
Mr. David H. Lillard, Jr.				X	
Dr. Gary Nixon	Non-Voting Member	Non-Voting Member	Non-Voting Member		
Mr. AC Wharton, Jr.				X	
Mr. Justin P. Wilson				X	
Mr. Keith Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Higher Education Commission on 04/24/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/03/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 03/27/2014

Date: 08/11/2014

Signature: *Richard G. Rhoda*

Name of Officer: Dr. Richard G. Rhoda

Title of Officer: Executive Director



Subscribed and sworn to before me on: 08-11-2014

Notary Public Signature: *Corsina Dickson-Wiley*

My commission expires on: 08-23-2014

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

RECOOPER

Robert E. Cooper, Jr.
Attorney General and Reporter

8-26-14

Date

Department of State Use Only

Filed with the Department of State on: 9-2-2014

Effective on: 12-1-2014

Tre Hargett

Tre Hargett
Secretary of State

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