

Sunset Public Hearing Questions for
ADVISORY COMMITTEE FOR ACUPUNCTURE
 Created by Section 63-6-1003, *Tennessee Code Annotated*
 (Sunset Termination June 2016)

1. Provide a brief introduction to the Tennessee Advisory Committee for Acupuncture, including information about its purpose, statutory duties, staff and administrative attachment.

To assist the Tennessee Board of Medical Examiners, the Tennessee Advisory Committee for Acupuncture was established by the General Assembly in 2000 to license those individuals actively engaged in the practice of acupuncture and auricular detoxification as those terms are defined in TENN. CODE ANN. § 63-6-1001. The Committee is responsible for safeguarding the health, safety, and welfare of Tennesseans by requiring those who practice acupuncture are qualified. The Committee, working with the Board of Medical Examiners, interprets the laws, rules, and regulations to determine the appropriate standards of practice to ensure the highest degree of professional conduct. The Committee is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Committee, along with the Board, determines the appropriate standard of care, investigates alleged violations of laws and rules, and disciplines licensees who are found guilty of such violations.

The Committee meets two (2) times per year. The meetings are open to the public. The Governor appoints all members of the Committee. The Committee consists of five (5) members. Three (3) of the members shall be certified acupuncturists; one (1) shall be an acupuncture detoxification specialist; and one (1) shall be a consumer members who is not employed in a health care profession.

2. Provide a list of current members of the committee and explain how membership complies with Section 63-27-103, *Tennessee Code Annotated*. Are there any vacancies on the committee and, if so, what is being done to fill those vacancies?

Although Ms. Jamieson’s appointment has technically expired, TENN. CODE ANN. § 63-6-1003(e) provides that each member shall serve on the Committee until a successor is appointed. The Committee’s Administrative Staff has made Ms. Jackson’s expired term known to the appropriate Health Related Boards (hereinafter “HRB”) personnel.

Member	Representation	Exp. of Term	Race/Gender
Jill Kelly	Acupuncturist	2-28-2016	Caucasion/Female
Serina Moore Scott	Acupuncturist	2-28-2016	Caucasion/Female
Chairmaine Jamieson	Acupuncturist	2-28-2015	African American/Female
Sheila Berry-Sanders	Acupuncturist	9-28-2017	African American/Female
Jian Yan	Acupuncturist	2-28-2017	Asian Male

Membership does not comply with § 63-27-103 as that statutory provision is applicable to the Board of respiratory care.

3. How many times did the committee meet in fiscal year 2014 and to date in fiscal year 2015? How many members were present at each meeting?

The Committee met for regular business twice in 2014 and have met twice in 2015 with a third meeting scheduled to take place in August 2015.

2014 Meetings:

March 14th – 4 members present

August 18th – 4 members present

2015 Meetings:

February 2nd – 5 members present

February 13th – 4 members present

4. What per diem or travel reimbursement do committee members receive? How much was paid to committee members during fiscal year 2014 and to date in fiscal year 2015?

Pursuant to TENN. CODE ANN. § 63-6-1003(h), Committee members are reimbursed for all necessary expenses incident to conducting the business of the Committee as well as a per diem of \$50 for each day's service spent conducting Committee business.

2014: \$2,796.32

2015 (to date): \$2,797.94 (+ members x \$50)

5. What were the committee's revenues (by source) and expenditures (by object) for fiscal year 2014 and to date for fiscal year 2015? Does the committee carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the committee does not carry a fund balance, what was the source of the revenue for the excess expenditures?

Yes, the Committee carries a fund balance. In 2014, that balance was \$135,747.72. In 2015, that balance is expected to grow to \$170,321.76. In recognition of the fact that the Committee's revenues exceed expenditures, the Committee has initiated the rulemaking process to reduce initial application and renewal fees.

2014

Revenues: \$20,584.25

Expenditures: \$3,375.23

2015 (to date)¹

Revenues: \$43,038.00

Expenditures: \$8,463.96

¹ All 2015 figures are projections. Actual financial revenues and expenditures will not be available until October 2015.

6. Is the committee subject to Sunshine law requirements (per Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public?

Yes, the Board is subject to Sunshine law requirements. All Sunshine Notices, including amended notices, are submitted by the Committee's administrative office to HRB's internet administrator by the 15th of the month preceding the applicable board meeting. The HRB internet administrator ensures that the Sunshine Notice is posted on the internet and that the Commissioner's Office is notified. Regarding minutes, the board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the Committee at its next regularly scheduled meeting. After the minutes are ratified, they are placed on the Committee's website. As of January 1, 2015, each meeting of the Committee is streamed live so the public can view the meeting as it is actually being held.

7. Please describe what policies and procedures the committee has in place to address potential conflicts of interest by committee members, staff and employees.

All Committee members are educated on the Department of Health's Conflict of Interest Policy during new Committee members' orientation to the Committee and at least once annually thereafter. Upon appointment, all Committee members are required to execute a conflict of interest statement and make all necessary disclosures. This statement is executed annually for the duration of the Committee member's term. It is the responsibility of the Committee administrator to ensure that all conflict of interest statements are properly and timely executed. Copies of all signed conflict of interest statements are maintained by the Committee's administrative office.

8. Does the committee have the authority to promulgate rules? If such authority is not granted, does the committee feel that authority is needed? If rules have been promulgated, please cite the reference.

Yes, the Committee has the authority to promulgate rules pursuant to TENN. CODE ANN. § 63-6-1004. Rules must be promulgated in consultation with the Board of Medical Examiners. The citation to the Committee's regulatory compilation is TENN. COMP. R. & REGS. 0880-12-.01 *et. al.*

9. Does the committee have a website? If so, please provide the web address. What kind of public information is provided on the website?

The Committee's website is <http://tn.gov/health/topic/AC-board>. The following information is made available to the public on the website:

- **Statutes and regulations governing the practice of acupuncture**
- **Policies adopted by the Committee**

- **Legislative updates applicable to the Committee**
- **Licensure verification (a portal which allows members of the public to verify that an acupuncturist or ADS is certified and has/has not been subject to disciplinary action in Tennessee)**
- **Information regarding how to file a complaint against a healthcare provider**
- **Past and future meeting dates and minutes**

10. What were the major accomplishments of the committee during fiscal year 2014 and to date in fiscal year 2015?

The Committee satisfied reached a level of self-sufficiency which will allow it to reduce its initial licensure and renewal fees. Additionally, the most recent benchmark processing report indicates that 87.5% of all applications were processed within the desired application benchmark.

11. Please describe any reports prepared by the committee during fiscal year 2014 and to date in fiscal year 2015 and specify to whom the reports are sent. Please attach copies of the reports.

This Board does not produce any reports.

12. How many practitioners of acupuncture are there in the state of Tennessee? Are they all under the authority of the committee? If not, what types of practitioners are not and should they be included under the committee's authority?

As of June 30, 2015, there are 145 acupuncturists in the state. There are 45 auricular detoxification specialists in the state. Both professions are under the jurisdiction of the Committee.

13. How many new certifications to practice acupuncture were issued in fiscal year 2014 and to date in fiscal year 2015? How many certifications were renewed during that same time period?

2014

New certifications issued: 27 (Acupuncturists: 14; ADS: 13)

Certifications renewed: 67

2015

New certifications issued: 18 (Acupuncturists: 14; ADS: 4)

Certifications renewed: 33

14. How many applications has the committee denied during fiscal year 2014 and to date in fiscal year 2015? What were the reasons for denial?

No applications were denied in 2014.

15. In fiscal year 2014 and to date in fiscal year 2015, how many certifications were suspended, placed on probation or revoked? What were the reasons for these disciplinary actions?

	2014	2015
Number Certifications suspended	0	0
Number of certifications placed on probation	0	0
Number of certifications revoked	0	0

16. How many complaints were filed with the committee in fiscal year 2014 and to date in fiscal year 2015?

2014: 0 complaints 2015 (to date): 1 complaint

17. Describe the process by which the committee receives, handles and tracks complaints. Are there written procedures? Are complaints rated by level of seriousness or other priority-handling method? Is a complaint log maintained? What is the average time to resolve a complaint? At what point is a complaint closed?

Complaints are triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are processed according to an established review procedure utilizing practicing members of the profession as consultants and a staff attorney assigned by the Department of Health. Complaints are designated by priority code, which can change during the course of an investigation. Complaints are tracked utilizing a computerized database system.

Written procedures are in place to serve as a guideline for the effective investigation and preparation of the necessary evidence for purposes of prosecution.

A complaint can be closed at initial review and/or after an investigation. The average time needed to close a complaint is not readily available as it can vary wildly depending upon the circumstances of the case.²

18. What steps has the committee taken to increase consumer awareness of the board as a mechanism to respond to consumer complaints and regulate the industry?

The Department of Health maintains a website at <http://tn.gov/health/article/filing-complaints-against-health-care-professionals> which provides consumers with an in-depth description of the

² See enclosed "Investigation Priority Codes," File No. 205.

complaint process including how to file a complaint and what they may expect from the Department of Health.

19. Did the committee assess any fines in fiscal year 2014 and to date in fiscal year 2015? What was the total amount of fines assessed for each fiscal year?

No fines were assessed in 2014 or 2015 (to date).

20. Has the committee developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the committee has developed and implemented quantitative performance measures, answer questions 21 through 28. If the committee has not developed quantitative performance measures, proceed directly to question 29.

Yes.

21. What are your key performance measures for ensuring the committee is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

The Board's Administrative Office has established benchmarks for the processing of initial applications and renewal applications. The application benchmark is one hundred (100) days from the date the application is received in the administrative office to issuance of the license. The benchmark for renewals is fourteen (14) days. The benchmark measures how long it takes the administrative office, with the assistance of the Committee consultant, to process an initial application or renewal from receipt of application to application decision.

The benchmark is important to the operation of our program because it is an accurate measure of how effectively and efficiently our staff and internal completes one of its primary responsibilities: issuing certifications to qualified applicants. The certification process itself is crucial because it is the process by which the Committee ensures that acupuncturists and auricular detoxification specialists who seek to become licensed in our state are properly qualified to provide services to Tennessee patients.

22. What aspect[s] of the program are you measuring?

In addition to application benchmark data, the Administrative Office collects data regarding the number of new licenses issued, licenses renewed and total number of licensees.

23. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

All data is collected electronically using HRB's computerized licensure system (LARS). As applications are received and processed, they are logged into the LARS system by the Committee administrator. Consequently, the date of the application will be noted in the system, as well as the date a decision was made to either approve or deny the application. The data is entered into the system as it is received in the administrative office, so it is collected in near real-time.

The licensure statistics are also captured by the LARS system which can be queried on an as-needed basis. Statistical licensure data is presented to the Committee at each Committee meeting.

24. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

The executive director requests that a semi-annual application processing report be prepared (January 1 through June 30 and July 1 through December 31). The report is generated through LARS and identifies all applications which fell outside the processing benchmarks within the six-month time frame selected. Once these files are identified, the Committee administrator reviews each identified file to determine the cause of the application delay. All files are reviewed and then categorized based on the cause of the delay. A summary is prepared and presented to the executive director and the director of HRB for review. The purpose of the report and review is to determine whether staff and/or internal processes are working efficiently and effectively or whether changes are needed.

Statistical licensure data reports are generated monthly by the administrative director and collected in an effort to identify trends in licensure and renewal.

25. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

The performance measure result is a real number.

26. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

See answer to # 24

27. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

Yes, see "Application Processing Benchmarks," File No. 106.04 (enclosed).

28. Describe any concerns about the committee's performance measures and any changes or improvements you think need to be made in the process.

No concerns at this time.

29. Provide an explanation of any items related to the committee that may require legislative attention, including your proposed legislative changes.

None at this time.

30. Should the committee be continued? To what extent and in what ways would the absence of the committee affect the public health, safety, or welfare of the citizens of the State of Tennessee?

Yes, the Committee should be continued. Absent the existence of the Committee, members of the public who receive acupuncture services would be uncertain that their healthcare provider is fully qualified to practice his/her profession in a safe and ethical manner that meets or exceeds the standard of care for an acupuncturist in the state of Tennessee.

Additionally, eliminating the licensure of acupuncturists would mean that acupuncturists would no longer be accountable to a regulatory authority within our state.

31. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

No federal funds received.

If the committee does receive federal assistance, please answer questions 32 through 39. If the committee does not receive federal assistance, proceed directly to question 38.

32. Does the committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

33. Does the committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

34. To which state or federal agency (if any) does the committee report concerning Title VI? Please describe the information your committee submits to the state or federal government and/or provide a copy of the most recent report submitted.

35. Describe the committee's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.

36. Describe the committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any committee monitoring or tracking activities related to Title VI, and how frequently these activities occur.
37. Please describe the committee's procedures for handling Title VI complaints. Has the committee received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
38. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

Title	Ethnicity	Gender
Executive Director	Caucasian	Female
Administrative Director	Caucasian	Female
Medical Consultant	African American	Female
Administrator	African American	Female
Licensing Technician	African American	Male
Licensing Technician	African American	Female
Licensing Technician	Hispanic	Female

39. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

No contracts at this time.

Tennessee Advisory Committee for Acupuncture
Actual Revenue and Expenditures thru December 31, 2014
and Projection for Fiscal Year Ending June 30, 2015

<u>Acct. Code</u>	<u>Description</u>	<u>thru Dec. 31, 2014</u>	<u>FY 2015 Projection</u>	<u>FY 2014</u>	<u>FY 2013</u>	<u>FY 2012</u>	<u>FY 2011</u>
701	Salaries & Wages	523.11	\$1,046.22	\$1,986.35	\$2,544.30	\$500.00	\$723.00
70102	Longevity	\$0.00	\$0.00	\$19.34	\$0.00	\$0.00	\$0.00
70104	Overtime	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
702	Employee Benefits	113.82	\$227.64	\$620.61	\$919.38	\$38.29	\$83.07
	Payroll Expenditures (701-702)	\$636.93	\$1,273.86	\$2,626.30	\$3,463.68	\$538.29	\$806.07
703	Travel	\$1,064.63	\$2,934.48	\$2,796.96	\$1,595.24	\$1,864.47	\$2,986.56
704	Printing & Duplicating	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
705	Utilities & Fuel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
706	Communications	\$75.01	\$126.84	\$223.79	\$71.87	\$98.35	\$762.95
707	Maintenance & Repairs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
708	Prof. Svc. & Dues	\$156.72	\$306.48	\$265.59	\$381.84	\$671.43	\$157.46
709	Supplies & Materials	\$0.00	\$750.00	\$0.00	\$0.00	\$0.00	\$0.00
710	Rentals & Insurance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
711	Motor Vehicle Ops.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
712	Awards & Indemnities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
713	Grants & Subsidies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
714	Unclassified	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
715	Stores for Resale	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
716	Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
717	Land	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
718	Buildings	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
721	Training of State Employees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
722	Computer Related Items	\$0.00	\$0.00	\$0.00	\$0.00	\$46.00	\$0.00
725	State Prof. Svcs.	\$171.18	\$339.00	\$540.88	\$346.24	\$239.60	\$173.60
	Total Other Expenditures (703-725)	\$1,467.54	\$4,456.80	\$3,827.22	\$2,395.19	\$2,919.85	\$4,116.57
	Total Direct Expenditures	\$2,104.47	\$5,730.66	\$6,453.52	\$5,858.87	\$3,458.14	\$4,922.64
	Allocated Expenditures						
	Administration	\$713.17	\$1,618.11	\$1,856.74	\$1,514.48	\$1,448.80	\$1,652.43
	Investigations	\$0.00	\$0.00	\$0.00	\$4,771.57	\$2,372.38	\$3,993.49
	Legal	\$488.20	\$976.40	\$2,067.41	\$1,845.97	\$3,380.65	\$292.67
	Cash Office	\$69.40	\$138.79	\$130.34	\$147.63	\$126.84	\$127.86
	Total Allocated Expenditures	\$1,270.76	\$2,733.30	\$4,054.49	\$8,279.65	\$7,328.67	\$6,066.45
	Total Expenditures	\$3,375.23	\$8,463.96	\$10,508.01	\$14,138.52	\$10,786.81	\$10,989.09
	Board Fee Revenue	\$20,584.25	\$43,038.00	\$35,153.34	\$39,156.25	\$35,322.16	\$37,359.64
	Projected Current Year Net		\$34,574.04	\$24,645.33	\$25,017.73	\$24,535.35	\$26,370.55
	Projected Cumulative Carryover		\$170,321.76	\$135,747.72	\$111,102.39	\$86,084.66	\$61,549.31



Tennessee Department of Health Division of Health Related Boards Administrative Policies and Procedures

Subject: Conflict of Interest

File No: 302.01

Approved by: _____
Rosemarie A. Otto, Director

Effective: September 1, 2002
Revised: June 1, 2013

Purpose: To assure that activities of Health Related Boards employees and board members do not conflict or have the appearance of conflicting with the provision of unbiased service to the public.

Policy: All full-time employees and board members of Health Related Boards shall adhere to the Department of Health's and the Health Related Boards' Conflict of Interest Policies (attached).

Procedure:

Employees: All employees will be required to read and sign the Health Related Boards' Conflict of Interest Policy for Employees (Exhibit 1) **and** the Department's Personnel Confidentiality Statement Form PH-3131 (Exhibit 2) upon initial hire and annually thereafter. A copy of both documents will be provided to each employee each time a signature is required. Signed copies shall be retained in the administrative office of the Division of Health Licensure and Regulation.

Board Members: All Board members will be asked to read and sign the Department's Conflict of Interest Policy for Board Members (Exhibit 3). Board members will be required to read and sign the Conflict of Interest Policy upon initial appointment and annually thereafter. Signed copies will be maintained on file in the Division of Health Licensure and Regulation.

**DEPARTMENT OF HEALTH
CONFLICT OF INTEREST POLICY
EMPLOYEES**

EXHIBIT 1

1. **PURPOSE:** To assure that an employee's activities do not conflict or have the appearance of conflicting with the provision of unbiased service to the public.
2. **APPLICABILITY:** This policy shall apply to all full-time employees of the Tennessee Department of Health.
3. **DEFINITIONS:**
 - A. **CONFLICT OF INTEREST:** a situation in which an employee's activities impair, or give the appearance of impairing, the person's ability to provide full unbiased public service.
 - B. **SUBSTANTIAL FINANCIAL INTEREST:** ownership by an employee or by the employee's spouse of ten percent (10%) or more of the stock of a corporation or ten percent (10%) or more of any other business entity.
 - C. **ORGANIZATIONAL UNIT** – a subdivision designated by the Commissioner of Health for administrative purposes.
4. **CONDUCT WHICH CREATES A CONFLICT OR THE APPEARANCE OF A CONFLICT:**
 - A. An employee shall not engage in any conduct, employment, or other activity which impairs, or gives the appearance of impairing, the person's ability to provide full unbiased public service.
 - B. An employee shall not violate applicable state or federal laws concerning conflict of interest
 - C. An employee shall not knowingly take any action which might prejudice the department's interest in a civil or criminal case.
5. **FINANCIAL INTERESTS:**
 - A. It is a conflict of interest for an employee, who has a public duty to recommend, approve, disapprove, monitor, regulate, investigate, or superintend, in any manner, a contract or other activity, to have a substantial financial interest in a business that does, or seeks to do, business with the employee's organizational unit.
 - B. An employee shall not have a financial interest in an outside entity of such significance that the departmental responsibilities and duties of the employee cannot be rendered in a fair and impartial manner.
 - C. An employee shall not engage in a financial transaction for personal gain replying upon information obtained solely through one's employment.
 - D. An employee shall not receive any compensation from a private source for services which are, or should be, performed as part of one's official duties, except as provided by statute or as approved by the Commissioner.

6. **OUTSIDE EMPLOYMENT AND ACTIVITIES:**

- A. An employee who has a public duty to recommend, approve, disapprove, monitor, regulate, investigate, or superintend program activities shall not engage in outside employment with an entity that is regulated by the employee's organizational unit.
- B. An employee shall not serve on a board of directors for a non-state agency that is regulated by, or that has or seeks funding from the employee's organizational unit unless the Commissioner deems such to be in the Department's interest and grants a waiver of this restriction.

7. **GIFTS AND FAVORS:** An employee shall not accept any item of significant monetary value (e.g., gift, gratuity, favor, entertainment, loan, unusual discount) except usual social and business courtesies (e.g., a meal, box of candy, samples) from a person who has or is seeking to obtain a contractual or other financial relationship with the employee's organizational unit or whose activities are regulated by such.

8. **HONORARIA:** An employee shall not accept honoraria or other compensation for activities which are, or should be, performed as part of one's official duties, except as provided by the Comprehensive Travel Regulations of the Department of Finance and Administration.

9. **ACTION TO RESOLVE A CONFLICT OF INTEREST:** An employee who has a conflict of interest must immediately eliminate such conflict. If an employee's activities give the appearance of a conflict of interest, such activities must be eliminated. If there is uncertainty whether a current or proposed activity is a conflict of interest, an employee should notify the Commissioner in writing of the potential conflict and receive approval for such activity.

10. **VIOLATION OF CONFLICT OF INTEREST:** An employee with a conflict of interest in violation of this policy is subject to disciplinary action in accordance with the Department of Human Resources' rules and regulations. An employee who violates a statutory conflict of interest is also subject to sanctions provided by statute.

CONFLICT OF INTEREST POLICY ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Department of Health's Conflict of Interest Policy for Employees and certify that I shall notify the Division of Health Related Boards immediately in writing if I feel that there may be a conflict of interest in an assignment. I also understand that the release of any confidential information obtained to any unauthorized person is prohibited. Further, to the extent a conflict of interest may exist, I have disclosed same in the space provided below.

DISCLOSURE OF CONFLICT OF INTEREST

I wish to disclose the following conflict. Please provide details about the nature of the conflict in the space provided:

Signature

Supervisor's Signature

Print Name

Print Name

Date

Date

Social Security Number

PH-3131

TENNESSEE DEPARTMENT OF HEALTH

EXHIBIT 2

PERSONNEL CONFIDENTIALITY STATEMENT

By signing below, I acknowledge and understand that, as a State employee of the Tennessee Department of Health or as a County, Contract, or Municipal employee working for the Tennessee Department of Health, I am prohibited from releasing to any unauthorized person any medical information which may come to my attention in the course of my duties.

Moreover, I acknowledge and understand that any breach of confidentiality, patient or otherwise, resulting from my written or verbal release of information or records provides grounds for disciplinary action, which may include my immediate termination as an employee of the department.

DRUG-FREE WORKPLACE

I, as a State employee of the Tennessee Department of Health, or as a County, Contract, or Municipal employee working for the Tennessee Department of Health, hereby certify that I have received a copy of the Tennessee Department of Health's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace or on state property and violation of this policy can subject me to discipline up to and including termination. I realize that as a condition of employment, I must abide by the terms of this policy and will notify the employer of any criminal drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction. I further realize that federal law mandates that the employer communicate this conviction to a federal agency, where appropriate, and I hereby waive any and all claims that may arise for conveying this information to the federal agency. By signing below, I acknowledge that I have agreed to comply with the Drug-Free Workplace Policy of the Tennessee Department of Health.

SEXUAL HARRASSMENT ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Tennessee Department of Health's Personnel Confidentiality Statement.

Signature

Supervisor's Signature

Print Name

Print Name

Date

Date

Social Security Number

PH-3131

RDA N/A

**TENNESSEE DEPARTMENT OF HEALTH
CONFLICT OF INTEREST POLICY
BOARD MEMBERS**

EXHIBIT 3

PURPOSE: To assure that the individual interests of board members do not conflict with their responsibilities to the Board to which they are appointed.

APPLICABILITY: This policy shall apply to all board members.

I. DEFINITIONS:

- A. **CONFLICT OF INTEREST:** A circumstance in which a board member's individual interest impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions or to provide full, unbiased service to the Board
- B. **FINANCIAL INTEREST:** Ownership by a board member or a board member's immediate family members of ten percent (10%) or more of the stock of a corporation or ten percent (10%) or more of any other business entity. Being employed by or serving as an officer in an educational, professional, religious, charitable, or civic organization does not constitute a financial interest.

II. CONDUCT:

- A. A board member shall not engage in conduct which impairs or impedes, or gives the appearance of impairing, the board member's ability to make full unbiased decisions, or to provide full, unbiased public service to the Board.
- B. A board member shall not knowingly take any action which might prejudice his or her ability, or other members of the board's ability, to make an unbiased decision on any matter in which the board member, or the board member's immediate family members, has a financial interest.
- C. A board member will not willingly participate as an expert witness in a contested case hearing before the Board.
- D. It is a conflict of interest for a board member to vote in a matter involving a party if the board member serves as a director, advisor, lobbyist, or other active participant in the affairs of such party.
- E. . It is a conflict of interest for a board member to vote in a matter involving a party in which the board member, or the board member's immediate family members, holds a financial interest.
- F. . A board member shall not accept any item of significant monetary value, except usual social and business courtesies, from a party or provider seeking specific board approval of action.
- G. . A board member who is employed by, or has contracted to provide services to, a health care provider seeking specific board approval or action, shall abstain from voting on the board approval or action.

H. . A board member shall not accept honoraria or other compensation for activities which are, or should be, performed as part of one's official duties, except as provided by the Comprehensive Travel Regulation of the Department of Finance and Administration.

III. DISCLOSURE:

A. Each board member shall disclose to the Board on a case-by-case basis, any personal relationship, interest or dealings that impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions on a matter.

B. For the purposes of contested cases, the Board will be governed by Tennessee Code Annotated Sec. 4-5-302, attached as Exhibit A to this policy.

IV. RECUSAL:

A. Any board member who has a conflict of interest as defined above must recuse himself/herself from any matter and is prohibited from participating in any discussion or vote on the matter, and shall leave the hearing room during the discussion or vote.

B. It is improper for any board member having a conflict of interest to attempt to influence another board member at any time, including prior to the discussion on the matter for which the conflict exists.

C. In business matters, the board chair, with the advice of the advising attorney, shall be the final authority to determine whether a board member must be recused.

CONFLICT OF INTEREST POLICY ACKNOWLEDGEMENT

By signing below, I acknowledge that I have read and agree to comply with the Department of Health's Conflict of Interest Policy for Board Members. Further, to the extent a conflict of interest may exist, I have disclosed same in the space provided below.

DISCLOSURE OF CONFLICT OF INTEREST

I wish to disclose the following conflict. Please provide details about the nature of the conflict in the space provided:

Signature

Print Name

Date



State of Tennessee Department of Health

**Division of Health Licensure & Regulation
Office of Investigations**

Administrative Policies and Procedures

Subject: Investigation Priority Codes
(supercedes: April 7, 2009)

File No: 205

Approved by: Denise L. Moran Effective Date: November 2, 2011
Denise L. Moran, Director

PURPOSE: To provide guidance and promote consistency among staff.

POLICY: Each complaint file shall receive a Priority Code when the complaint file is to be investigated in order to communicate the level of importance of the case and the priority the case should receive when being investigated and processed.

PROCEDURE: The reviewer(s) shall agree upon a priority code that applies to the allegations that have been filed against a practitioner. The priority codes shall be indicated on the Review Form. The following priority codes shall be used to indicate the possibility of the severity of the issues and the potential of harm to either a patient and/or patient population, as follows:

- 1 – Potential Harm Minimal – Investigation time 150 days or less;
- 2 – Potential Harm – Investigation time 120 days or less;
- 3 – Actual Harm/No Immediate Jeopardy – Investigation time 21 days or less;
- 4 – Immediate Jeopardy – Investigation time 2 to 5 days, or less.



State of Tennessee Department of Health

Division of Health Related Boards Administrative Policies and Procedures

Subject: Application Processing Benchmarks

File No: 106.04

Approved by: _____
Rosemarie Otto, Director

Effective Date: May 31, 2013

PURPOSE: To establish fair benchmarks that measures the timeliness of application processing (both initial and renewal) by board administrative staff and, consistency in reviewing and retaining reports relative thereto.

POLICY: It is the policy that staff effectiveness in achieving benchmarks be reviewed on a semi-annual basis. A report shall be prepared by the Director of Health Related Boards and transmitted to the Assistant Commissioner for the Division of Health Licensure and Regulation. Said report shall be retained in the Office of the Director for Health Related Boards for ten (10) years.

PROCEDURES:

A. **Frequency of Report:** Each Unit director shall request that a semi-annual report be prepared twice a year (January 1 through June 30 and July 1 through December 31) the purpose of which is to evaluate the effectiveness of board staff in achieving the benchmarks for application processing set forth below.

B. **Timeliness of Report:** The report must be requested not more than thirty (30) days following the conclusion of the reporting period above.

C. **Content of Report:** Each Unit director must review the report and identify those applications whose processing times exceed the established benchmarks and provide an explanation for application processing times in excess of established benchmarks. The Unit director may utilize administrators for the purpose of preparing a report to the Director of Health Related Boards relative to those applications exceeding established benchmarks.

D. **Reporting Time Frames.** For the *period January 1 through June 30*, the report must be available to the Director of Health Related Boards on or before August 15 and transmitted to the Assistant Commissioner for the Division of Health Licensure and Regulation on or before August 31. For the period *July 1 through December 31*, the report must be available to the Director of Health Related Boards on or before February 15 and transmitted to the Assistant Commissioner for the Division of Health Related Boards on or before February 28.

E. **Form of Reports:** Computer-generated reports will be prepared for initial and renewal applications. The first report will be prepared by the director of health related boards or his/her designee and contain the profession number and name, the duration of time the application was pending, the number of initial applications over the benchmark and the total number of application approved during the reporting period. The second report, prepared by directors and/or managers, will be in the form of an excel spreadsheet containing the license number, type of application, and a hand-generated note stating the reason for not meeting the established benchmark, when applicable.

F. **Transmittal and Retention of Reports:** The Director for Health Related Boards is responsible for receiving the individual reports and providing an electronic copy to the Assistant Commissioner for the Division of Health Licensure and Regulation. An electronic copy must be maintained in the Office of the Director of Health Related Boards for at least ten (10) year following the reporting period.

BENCHMARKS:

A. **One Hundred Day Benchmark:** Except for the boards specifically identified below, all initial applications must be processed within one hundred (100) days from the date the application is date stamped as received in the administrative office until the license is issued.

B. Exceptions:

1. **Board of Veterinary Examiners.** There is established a benchmark for processing initial applications for licensure for veterinarians of not to exceed three hundred and sixty-five (365) days.

2. **Board of Examiners for Nursing Home Administrators.** There is established a benchmark for processing initial applications for licensure of nursing home administrators of not to exceed seven hundred thirty (730) days.

3. **Medical Laboratory Board.** There is established a benchmark for processing **personnel** application of not to exceed two hundred (200) days.

4. **Board of Social Worker Licensure.** There is established a benchmark for processing initial applications for licensure of social workers of not to exceed five hundred fifty (550) days.

5. **Board of Podiatric Medical Examiners.** There is established a benchmark for processing initial applications for licensure of podiatrists of not to exceed five hundred fifty (550) days.

6. **Board of Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists.** There is established a benchmark for processing initial applications for licensure of professional counselors, marital and family therapists and clinical pastoral therapists of not to exceed seven hundred thirty (730) days.

7. **Board of Alcohol and Drug Abuse Counselors.** There is established a benchmark for processing initial applications for licensure of alcohol and drug abuse counselors of not to exceed five hundred fifty (550) days.

8. **Board of Examiners in Psychology.** There is established a benchmark for processing initial applications for licensure of psychologists of not to exceed three hundred sixty-five (365) days.

9. **Board of Communication Disorders and Sciences' Council for Licensing Hearing Instrument Specialists.** There is established a benchmark for processing initial applications for licensure of hearing instruments specialists of not to exceed seven hundred thirty (730) days.

10. **Board of Dispensing Opticians.** There is established a benchmark for processing initial applications for licensure of dispensing opticians of not to exceed three hundred sixty five (365) days.

11. **Board of Pharmacy.** There is established a benchmark for processing initial applications for licensure of pharmacists of not to exceed one hundred twenty (120) days.

12. **Polysomnography Professional Standards Committee.** There is established a benchmark for processing initial applications for licensure of Polysomnography technologists of not to exceed four hundred fifty-five (455) days.

13. **Genetic Counselors.** There is established a benchmark for processing initial applications for licensure of Polysomnography technologists of not to exceed four hundred fifty-five (455) days.

14. **Board of Nursing.** There is established a benchmark for processing initial applications for licensure by **examination** of registered and practical nurses of not to exceed one thousand twenty-five (1025)days in order to comply with Rule 1000-01-.01(3)(f)2 and 1000-02-.01(3)(f)2 which allow an applicant failing NCLEX three years to qualify by re-examination.

C. **Fourteen Day Benchmark:** Except for the boards specifically identified below, all renewal applications must be processed within fourteen (14) days from the date the renewal application is date stamped as received in the administrative office until the license is renewed.

D. Exceptions:

1. **Veterinary Facilities.** There is established a benchmark for processing of renewal applications for veterinary facilities of not to exceed 90 days.

2. **Certified Animal Control Agencies.** There is established a benchmark for processing of renewal applications for certified animal control agencies of not to exceed 90 days.

3. **Certified Professional Midwifery.** There is established a benchmark for processing of renewal applications for certified professional midwives of not to exceed 50 days.