

**G.O.C. STAFF RULE ABSTRACT**

**DEPARTMENT:** Commerce and Insurance

**DIVISION:** Insurance

**SUBJECT:** Electronic Premium Taxation Payments; Convenience Fee

**STATUTORY AUTHORITY:** 2015 Public Acts, Chapter 155 and Tennessee Code Annotated, Section 56-4-216.

**EFFECTIVE DATES:** January 12, 2016, through July 10, 2016

**FISCAL IMPACT:** None

**STAFF RULE ABSTRACT:** These emergency rules establish a means and method for the electronic filing of insurance company premium taxes. Specifically, these rules instruct that the Division of Insurance will use the OPTins program for the payment and collection of premium taxes. These rules also establish a ten dollar (\$10) convenience fee for electronic payment of such premium taxes.

### **Impact on Local Governments**

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

This rule will not have an impact on local governments.

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Sequence Number: 01-12-16  
Rule ID(s): 6104  
File Date (effective date): 1/12/16  
End Effective Date: 7/10/16

# Emergency Rule Filing Form

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

<b>Agency/Board/Commission:</b>	Department of Commerce and Insurance
<b>Division:</b>	Insurance
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**Rule Type:**  
 Emergency Rule

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

**Statement of Necessity:**

Pursuant to T.C.A. § 4-5-208, the Commissioner of Commerce and Insurance ("Commissioner") is authorized to promulgate emergency rules in the event that the rules are required by an enactment of the general assembly within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in T.C.A. Title 4, Chapter 5, for the promulgation of permanent rules.

Chapter 155 of the Public Acts of 2015 ("Act") amended the existing insurance company premium taxation statutes by adding new provisions which require electronic collection of premium taxes. All non-exempt insurance companies selling insurance in the State of Tennessee are required to pay quarterly premium taxes on gross premiums paid by policyholders residing in this state or on property located in this state. The Act requires these premium tax payments be made electronically, in a form approved by the Commissioner. The Act further directs the Commissioner to establish rules for the payment and receipt of premium taxation in electronic format. The Act lastly allows the Commissioner to establish a convenience fee payable by the insurance company to cover the costs of accepting electronic premium tax returns. The electronic premium taxation payment requirement and rulemaking authority both take effect January 1, 2016, and the public chapter was signed into law by the Governor on April 1, 2015. There is not enough time to go through a notice of rulemaking hearing as the January 1, 2016, premium taxation requirements takes effect concurrent with the authority to enact rules to regulate such payments.

These rules are necessary for the Commissioner to establish the format and process for electronic premium taxation payments to be made. These rules are intended to establish consistent methods for payment and receipt of premium taxes from all insurance companies operating in the State of Tennessee.

The simultaneous January 1, 2016, effective date of both the electronic payment requirement and the authority to create rules regulating such electronic payments does not provide adequate time to conduct a notice of rulemaking hearing. Due to the length of time necessary to complete the rulemaking process to promulgate

rules for the electronic payment of premium taxes, these emergency rules are required in order for the Commissioner to comply with the enactment of the Legislature and to ensure that the Commissioner has the necessary resources to implement the Act. The Commissioner will promptly conduct a rulemaking hearing to consider comments on the adoption of these as permanent rules; the notice of rulemaking hearing is being filed contemporaneously with these emergency rules.

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

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-01-50	Relating to the Timely Filing of Premium Tax Returns
<b>Rule Number</b>	<b>Rule Title</b>
0780-01-50-.01	Definitions
0780-01-50-.02	Purpose
0780-01-50-.03	Scope
0780-01-50-.04	Identification of Taxes, Fees and Other Obligations Covered
0780-01-50-.05	Filing Returns and Payment of Taxes
0780-01-50-.06	Severability Provision

Rules  
Of  
The Tennessee Department Of Insurance  
Division Of Insurance

Chapter 0780-01-50  
Relating To The Timely Filing Of Premium Tax Returns

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0780-01-50-05	Filing Returns and Payment of Taxes
0780-01-50-06	Severability Provision

0780-01-50-01 DEFINITIONS

- Definitions.
- (1) "Tax return", as used herein, shall mean the tax return as identified in Section 56-4-205, Tennessee Code Annotated. "Commissioner," as used herein, means the commissioner of commerce and insurance.
  - (2) "Payment", as used herein, means check payable to the Commissioner in the full amount due as calculated on the tax return. "Department" means the department of commerce and insurance.
  - (3) "Commissioner", as used herein, means the Commissioner of Insurance. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
  - (4) "Gross premiums," as used in this chapter, means maximum gross premiums as provided in the policy contracts, new and renewal, including policy or membership fees, whether paid in part or in whole by cash, automatic premium loans, dividends applied in any manner whatsoever, and without deduction or exclusion of dividends in any manner; but excluding premiums returned on cancelled policies, or on account of reduction in rates, or reductions in the amount insured or experience rating refunds on life insurance policies and disability insurance policies.
  - (5) "Immediately available funds" as used in this chapter shall mean funds which are available to OPTins pursuant to rule 0780-01-50-05.
  - (6) "NAIC" means the National Association of Insurance Commissioners.
  - (7) "OPTins" means the NAIC's Online Premium Tax for Insurance tax filing and payment program.
  - (8) "Signature of attestation" means the taxpayer's certification that the tax return, and any accompanying forms or payments, have been examined and are, to the best of the taxpayer's knowledge, information, and belief, a true, correct, and complete tax return made in good faith, as evidenced by the taxpayer's mark either through an electronic verification on the OPTins tax form, or through submission of an electronic copy of a hand-signed form.

Authority: T.C.A. §§ 56-1-501, 56-1-701, and 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.02 PURPOSE Purpose.

The purpose of this rule is to identify the two methods of making premium tax filings and payments promptly and correctly as required by Section 56-4-216, Tennessee Code Annotated. chapter is to establish the method required by the department for the filing of premium tax returns and the payment of premium taxes and other fees by electronic means.

Authority: T.C.A. §§ 56-1-501, 56-1-701, and 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.03 DUE DATE OF PAYMENTS Scope.

For compliance with the requirements of Section 56-4-205, 206, 207, 208 and 209, Tennessee Code Annotated, all such taxes shall not be considered as paid on or before March 1 and /or September 1 of each year unless the tax returns and payment are actually received in the department on or before March 1 and/or September 1 of each year; except, that a tax return with payment will be considered "timely filed" provided such premium tax return and payment bears a registered mailing date no later than March 1 and/or September 1 and is transmitted by registered United States Mail, return receipt requested. When the due date falls on a non-business day (Sunday or legal holiday), the next business day following will be considered as the due date. Every entity required to file returns, reports or other documents and make payments pursuant to the taxes listed in rule 0780-01-50-.04 shall file such returns, reports or other documents and make such payments of premium taxes, fees or other obligations identified herein in the electronic format as specified by this chapter, no later than the date such payment or remittance of funds is required, in funds which are immediately available to OPTins pursuant to rule 0780-01-50-.05 on the due date of payment no later than the close of business.

Authority: T.C.A. §§ 56-1-501, 56-1-701, and 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.04 Identification of Taxes, Fees and Other Obligations Covered.

Payments for the following taxes, fees or other obligations will be subject to payment pursuant to this chapter:

- (1) Gross premium tax as found in T.C.A. § 56-4-205;
- (2) Workers' Compensation gross premium tax as found in T.C.A. § 56-4-206;
- (3) Additional payment for fire insurance as found in T.C.A. § 56-4-208;
- (4) Retaliatory tax as found in T.C.A. § 56-4-218;
- (5) Taxation on Health Maintenance Organizations as found in T.C.A. § 56-32-124;
- (6) Tax on title insurance risk rate charges as found in T.C.A. § 56-35-107
- (7) Any other tax or fee, including the fee under rule 0780-01-50-.05(6) as may be associated with the payment of the above listed taxes.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-206, 56-4-208, 56-4-216, 56-4-218, 56-32-124, 56-35-107, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.05 Filing Returns and Payment of Taxes.

- (1) Every entity required to file a return, report or other document with the department, in conjunction with the taxes listed in rule 0780-01-50-.04, shall file any such return, report or other document with the department electronically, no later than the date such return, report or other document is required by law to be filed with the department. Such return, report or document filed electronically with the department shall be filed through OPTins and signed by the taxpayer by means of an acceptable signature of attestation.
  - (a) Filings made to OPTins on or before the day the tax payment is due shall be deemed received by the department on the date received by OPTins.
- (2) Every entity required to file a return shall also pay any taxes owed through OPTins by any means accepted by OPTins.
  - (a) Payments remitted through Automated Clearing House Debit (ACH-debit) payable to OPTins on or before the day the tax payment is due shall be deemed received by the department and paid to the department on the date the ACH-debit is initiated.
  - (b) Payments made through Automated Clearing House Credit (ACH-credit) payable to OPTins shall be deemed received by the department and paid to the department, so long as the ACH-credit is received by OPTins on or before the day the tax payment is due.
  - (c) The commissioner may waive rule 0780-01-50-.05(2)(a) and (b) in the event OPTins has been subject to some kind of catastrophic event.
- (3) Failure to timely make such payment in immediately available funds shall subject the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments pursuant to T.C.A. § 56-4-216. If payment is timely made in other than immediately available funds, such that payment is not received by the state on the date payments are due, penalty and interest shall be added to the amount of tax due from the due date of the tax payment to the date that funds from the tax payment become available to the state.
- (4) If a tax payment due date falls on a Saturday, Sunday or banking holiday, the electronic payment must be made so that the funds are immediately available on the first business day after the due date.
- (5) The requirement to make electronic payments does not change the requirement to file returns, reports and documents associated with said payments in the manner prescribed by rule 0780-01-50-.05(1).
- (6) Every entity required to file a return shall be responsible for paying a convenience fee of up to Ten Dollars (\$10.00) per filing to cover the department's actual costs incurred by accepting electronic filings through OPTins. Such convenience fee shall be assessed in addition to any applicable penalty and interest. Such convenience fee shall be in addition to the premium tax.
- (7) In the event an entity believes the correct calculation of its taxes contemplated in rule 0780-01-50-.04 is different from the taxes calculated by OPTins, that entity retains the right to dispute the tax calculation after payment of the tax as assessed.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.06 Severability Provision.

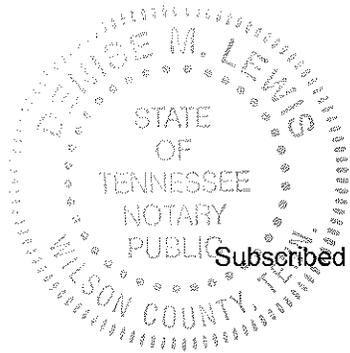
If any provision of this chapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

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



My Commission Expires

Date: 1/5/16

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: 1/5/16

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/16

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

Herbert H. Slatyer III

Herbert H. Slatyer III  
Attorney General and Reporter

1/8/2016

Date

**Department of State Use Only**

Filed with the Department of State on: 1/12/16

Effective for: 180 \*days

Effective through: 7/10/16

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

Tre Hargett

Tre Hargett  
Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Title V Permitting Program - Fee Increases and Decreases

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-201-105 et seq.

EFFECTIVE DATES: April 5, 2016 through June 30, 2017

FISCAL IMPACT: The agency has provided the following fiscal impact information:

It is estimated that the proposed amendments will result in decreased state revenues of approximately \$255,361. The decrease will not negatively impact the Division's ability to run the program, because a fund balance of approximately \$1,465,098 existed on June 30, 2015. Expenditures are predicted to increase by approximately \$786,000 for the 2015-2016 fiscal year, leaving a fund balance of approximately \$770,348. A fund balance is prudent because emission fees and emission fee rates are established based on estimated expenses.

STAFF RULE ABSTRACT: The proposed rule amendments make the following changes:

Section 502(b)(3)(A) of the federal Clean Air Act requires Tennessee, in order to remain an EPA-approved program, to collect sufficient revenue to administer the major source "Title V" permitting program. As a result of increased expenses, the Air Pollution Control Board proposes to amend its rules to:

- (1) Increase the annual fee by \$4.00/ton for non-electric utility generating unit (non-EGU) sources;
- (2) Decrease the annual fee by \$6.50/ton for electric utility generating unit (EGU) sources; and

(3) Require a source to pay the greater of \$7,500 or the amount calculated using the per ton fee instead of a \$7,500 base fee and an additional per ton fee on emissions of 250 tons or greater.

Responsible officials of Title V permitted sources may choose annually whether to pay based on a calendar year or the state fiscal year; whether to request a reduction in allowable emissions for fee reduction through permit modification or permit submission; and whether to pay based on actual emissions, allowable emissions, or both.

The procedure for requesting voluntary emission limits for fee reduction requests is updated to submission of a written request instead of requiring an informal meeting for certain sources.

Greenhouse gases are excluded from fees if they are only subject to fees because they are greenhouse gases.

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Sequence Number: 01-05-16  
Rule ID(s): 6101  
File Date: 1/6/16  
Effective Date: 4/5/16

# 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).*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Air Pollution Control
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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
1200-03-26	Administrative Fees Schedule
Rule Number	Rule Title
1200-03-26-.02	Construction and Annual Emission Fees

## Public Hearing Comments

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

Comment: Thank you for working with the Tennessee Chamber of Commerce and Industry (TCC&I) in developing the revised fees.

Response: No response needed.

### 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 rule amendment to paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Emission Fees relative to the amount of emission fees and emission fee rates is federally mandated and exempt from the provisions of the Regulatory Flexibility Act pursuant to Tenn. Code Ann. § 4-5-404. Due to increased program expenses, the rule amendment proposes to increase emission fee rates in order to generate sufficient revenue to administer the major source "Title V" permitting program as mandated by federal law. Small businesses that are Title V sources will experience increased fees, although some of these small businesses will pay the minimum fee and so will not experience a fee increase. The number of small businesses that are Title V sources is not known as data relative to number of employees is not collected.

The review below addresses the following proposed rule amendments:

- Allowing Title V sources more flexibility in fee calculation and payment by authorizing emission fee payment based on a calendar year as well as the state fiscal year; the voluntary restructuring of emissions for fee reduction on an annual basis; and the choice of actual or allowable emissions or a mix of emissions for purposes of fee calculation on an annual basis;
  - Excluding greenhouse gases from fees if they are only subject to fees because they are greenhouse gases;
  - Updating the procedure for requesting a reduction in fees to submitting a written request instead of requiring an informal meeting for certain sources; and
  - Improving rule structure through minor reorganization.
- (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.
- Any small business with an air pollution permit would be affected by these rule amendments. These amendments clarify the law for all air pollution sources and offer more flexibility for small businesses that pay Title V emission fees.
- (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.
- It is not anticipated that the proposed rule amendments will increase compliance costs relative to reporting, recordkeeping, or other administrative costs.
- (3) A statement of the probable effect on impacted small businesses and consumers.
- These rule amendments should benefit small businesses by increasing the choices available for reporting and fee calculation (if the small business owns or operates a Title V source), clarifying that certain pollutants are not subject to fees, and authorizing a less cumbersome method of requesting fee reduction.
- (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.
- No alternatives are known.
- (5) A comparison of the proposed rule with any federal or state counterparts.
- A number of states (including Florida, Texas, and West Virginia) exclude constituents of greenhouse gases from fees and at least one state (Oregon) expressly makes such pollutants subject to fees.

- (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.

Exemption of small businesses would prevent small businesses from experiencing the intended benefits of the proposed rule amendments.

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

Chapter 1200-03-26  
Administrative Fees Schedule

Amendments

Subparagraph (c) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (c) "Annual Accounting Period" is a twelve (12) consecutive month period. For major sources subject to paragraph ~~1200-03-26-.02 (9) of this rule~~, the annual accounting period is ~~July 1st to June 30th of the following year shall be either of the following: the calendar year (January 1 to December 31) or the state fiscal year (July 1 to June 30).~~

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Subpart (iii) of part 5 of subparagraph (i) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (iii) Any pollutant that is subjected to any standard promulgated under section 111 of the Federal Act; provided, however, that any such pollutant shall not be a regulated pollutant solely because the pollutant is a constituent of greenhouse gases;

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by adding a new subparagraph (s) to read as follows:

- (s) "Greenhouse gases" means the air pollutant defined in part 86.1818-12(a) of Chapter I of Title 40 of the Code of Federal Regulations as the aggregate group of the following six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Subparagraph (d) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting in its entirety and substituting instead the following:

- (d) ~~Reserved. If a responsible official wishes to reduce the amount of the fee by utilizing the provisions of subparagraph 1200-03-26-.02(6)(b), the official may request a meeting with the Division to discuss the annual emission fee assessment. This meeting will be an informal review meeting and must be requested in writing at least 90 days prior to the due date of the annual emission fee. Any request received after that deadline may only apply to the fee for the following year and not for the year being invoiced. The informal review meeting will be for the purpose of explaining to the responsible official the computation methods used to determine the annual emission fee. The responsible official for a major source may restructure their fee liability through a reduction in allowable emission rates only during the periods of restructuring eligibility that are declared at part 1200-03-26-.02(9)(b)1.~~

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Subparagraph (b) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (b) 1. The minor source and conditional major source annual emission fee must be calculated as the sum of allowable emissions of all regulated pollutants at a source. Upon mutual

agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive requirement must be specified on the permit, and must include the method used to determine compliance with the limitation. The documentation procedure to be followed by the source owner or operator must also be included to insure that the limit is not exceeded. Exceedances of the mutual agreement limit will be considered by the Board as circumvention of the required annual emissions fee and a matter in which enforcement action must be pursued.

2. To reduce the amount of the fee as provided in part 1 of this subparagraph, the responsible official must submit a letter to the Technical Secretary requesting reduced allowable emissions and providing the method or methods that will be used to ensure compliance with the requested limit or limits. This request must be received at least ninety (90) days prior to the applicable due date of the annual emission fee. Any request received after that deadline may only apply to the fee for the following year and not for the year being invoiced.

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Subparagraph (i) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting in its entirety and substituting instead the following:

- (i) The responsible official must pay an annual emission fee as per subparagraph 1200-03-26-.02(6)(e) of this paragraph. The annual emission fee will be calculated on no more than 4,000 tons per year of each regulated pollutant. An annual emission fee will not be charged for Carbon Monoxide carbon monoxide or for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 et seq.

Paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (9) Annual Emission Fees for Major Sources.
  - (a) A responsible official of a major source must pay an annual emission fee to the Division. A major source is not subject to the minor source annual emission fees of paragraph 1200-03-26-.02 (6) of this rule on or after July 1, 1994. Once a major stationary source begins to pay major source annual emission fees, it will not be subject to the construction permit fees of paragraph 1200-03-26-.02 (5) of this rule for any additional construction occurring at the source.
  - (b) ~~The annual major source emission fee shall be based upon the responsible official's choice of actual emissions or allowable emissions. If the responsible official chooses actual emissions, the magnitude of the source's emissions must be proven to the satisfaction of the Technical Secretary. The procedure for quantifying actual emission rates shall be specified in the major source operating permit. The costs of proving the actual emission rates on an annualized basis shall be born by the source above and beyond the cost of the annual emission fee actual emission basis.~~
    1. ~~Major source operating permit applicants shall make a binding fee payment choice to the Technical Secretary upon submission of their initial major source operating permit application. The fee choices are allowable based emission fees, actual based emission fees, or mixed actual and allowable based emission fees. Applicants who fail to declare their fee payment choice in their initial permit application shall be subject to paying their annual emission fees on an allowable emission basis. This default choice can be altered at reopening of the major source operating permit and renewal of the permit. Mixed approaches of actual and allowable based fees at a facility will be permitted only if the parts of the facility that will have actual emission based fees are monitored by a continuous emission monitoring system for the pollutant(s) being monitored that has been approved by the Technical Secretary as being capable of quantifying and recording the emission levels present at that part of the facility. The system may directly monitor the~~

~~emissions or indirectly monitor the emissions through correlation of the instrument's readout with the emission levels that are indirectly monitored. (An example of direct instrumental monitoring would be an in-stack sulfur dioxide monitor. An example of an indirect instrumental method of monitoring would be a temperature recorder at an incinerator. The collected temperature data would be correlated with a graph curve plotting emission levels as a function of temperature.) Once the choice has been declared, it may be altered only during the following periods of eligibility. These periods occur upon expiration of the initial major source operating permit, renewal of an expired major source operating permit or reissuance of a major source operating permit. Major sources who have filed a timely, complete operating permit application in accordance with the title V provisions of the Federal Act, the implementing Federal regulations at 40 CFR Part 70 or any Division Rules promulgated thereunder, shall pay allowable emission based fees until the beginning of the next annual accounting period following receipt of their major source operating permit. At that time, they may begin paying their annual emission fee based upon their choice of actual or allowable based fees, or mixed actual and allowable based fees as approved by the Technical Secretary. Once permitted, altering the existing choice shall be accomplished by a written request of the major source, filed in the office of the Technical Secretary at least one hundred eighty (180) days prior to the expiration or reissuance of the major source operating permit. On or before December 31 of the annual accounting period, the responsible official must submit to the Division in writing the responsible official's determination to pay the annual emission fee based on:~~

~~(i) Either a calendar year or state fiscal year; and~~

~~(ii) Actual emissions, allowable emissions, or a mixture of actual and allowable emissions of regulated pollutants.~~

~~2. If the responsible official does not declare a fee payment choice as provided in subparts 1(i) or (ii) of this subparagraph, then the basis of the annual fee payment shall be the antecedent annual accounting period and annual fee basis (actual emissions, allowable emissions, or a mixture) specified in the source's current major source operating permit.~~

~~3. If the responsible official wishes to restructure a major source's allowable emissions for the purpose of lowering the major source's annual emission fee, then an application must be filed at least ninety (90) days prior to December 31 of the annual accounting period as provided in subparagraph (g) of this paragraph.~~

~~4. The responsible official of a newly constructed major source or a minor source modifying its operation such that the source becomes a major source shall pay an initial annual emission fee based on the state fiscal year and allowable emissions for the fractional remainder of the state fiscal year annual accounting period commencing upon the source's start-up.~~

~~5. For purposes of the payment of annual emission fees due July 1, 2016, parts 1 and 2 of this subparagraph shall not apply. Annual emission fees due July 1, 2016, shall be based on the state fiscal year and the annual fee basis (actual emissions, allowable emissions, or a mixture) specified in a source's current major source operating permit. If a source does not have an effective major source operating permit on July 1, 2016, then the source's responsible official shall pay the annual emission fee based on the state fiscal year and allowable emissions.~~

(c) Deleted Reserved.

(d) 1. ~~Every source subject to this paragraph shall pay an annual fee of Notwithstanding the annual emission fee rates established by part 2 of this subparagraph, the annual emission fee required to be paid by a responsible official relative to a major source pursuant to subparagraph (a) of this paragraph shall be no less than \$7,500.~~

2. ~~In addition to the annual fee of part 1 of this subparagraph, all sources with allowable emission rates greater than 250 ton per year (excluding carbon monoxide) shall pay the following:~~
- ~~(i) The rate at which major source actual-based annual emission fees are assessed for non-EGU sources shall be \$39.00 per ton and the rate at which major source allowable-based annual emission fees are assessed for non-EGU sources shall be \$28.50 per ton. For purposes of this part, an electric utility generating unit (EGU) means any steam electric generating unit or stationary combustion turbine that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected EGU.~~
  - ~~(ii) The rate at which major source actual-based annual emission fees are assessed for EGU sources shall be \$56.00 per ton and the rate at which major source allowable-based annual emission fees are assessed for EGU sources shall be \$45.50 per ton. The annual emission fee rates applied to calculate the annual emission fee assessed pursuant to paragraph (a) of this paragraph shall be as follows:
    - ~~(I) Fee based on actual emissions: \$43.00 per ton for non-EGU sources and \$49.50 per ton for EGU sources; and~~
    - ~~(II) Fee based on allowable emissions: \$32.50 per ton for non-EGU sources and \$39.00 per ton for EGU sources.~~~~
  - ~~(iii) The annual emission fee rates enumerated in subpart (ii) of this part must be supported by the Division's annual workload analysis that is approved by the Board.~~
3. ~~The annual emission fee rates required by part 2 of this subparagraph remain in effect until the effective date of an amendment to this subparagraph. Any revision to these rates must result in the collection of sufficient fees to fund the activities identified in subparagraph (1)(c) of this rule. These fee rates shall be supported by the Division's annual workload analysis that is approved by the Board. The annual emission fee rates shall remain in effect until the effective date of an amendment to part 2 of this subparagraph. Any revision to the annual emission fee rates must result in the collection of sufficient fee revenue to fund the activities identified in subparagraph (1)(c) of this rule and must be supported by the Division's annual workload analysis that is approved by the Board.~~
4. ~~For purposes of this subparagraph, an electric utility generating unit (EGU) means any steam electric generating unit or stationary combustion turbine that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected EGU.~~
- (e) 1. An emission cap of 4,000 tons per year per regulated pollutant per major source SIC code shall apply to actual or allowable based emission fees. A major source annual emission fee will not be charged for emissions in excess of the cap(s) or for carbon monoxide.
2. No major source annual emission fee will be charged for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.

- (f) In the case where a source is shut down such that it has operated only during a portion of the annual accounting period and the source's permits are forfeited to the Technical Secretary, the appropriate fee shall be calculated on a prorated basis over the period of time that the source was operated in the annual accounting period. A The responsible official of a major source that is shutdown, but wishes to retain their its permits, shall pay a maintenance fee equivalent to 40% of the fee that would be charged had they chosen the responsible official determined to base the annual emission fee on allowable emission-based annual emission-fee emissions. If the source responsible official chooses this option in the midst of an annual accounting period, then the fee will be prorated according to the number of months that the source was in the maintenance fee status. The source responsible official shall notify the Division no later than January December 31 prior to the end of the annual accounting year (June 30) to provide of the annual accounting period so that the Division will have sufficient time to adjust billing records for the maintenance fee status.
- (g) Major sources Responsible officials required to pay the major source annual emission fee pursuant to subparagraph (a) of this paragraph must conform to the following requirements with respect to fee payments:
1. (i) If a responsible official paying the annual emission fee based on allowable emissions wishes to restructure a major source's allowable emissions for the purpose of lowering the major source's annual emission fee, then upon mutual agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive regulatory requirement, the method used to determine compliance with the limitation, and the documentation procedure to be followed by the major source to ensure that the limit is not exceeded must be included in the application and specified in a permit through either the permit modification processes of paragraph (11) of Rule 1200-03-09-.02, or the construction permit processes of Rule 1200-03-09-.01, or both. The more restrictive requirement shall be effective for purposes of lowering the annual emission fee upon agreement by both the responsible official and the Technical Secretary and for all other purposes shall be effective upon issuance of the permit, modification, or both. major source choosing an allowable-based annual emission fee wishes to restructure its allowable emissions for the purposes of lowering its annual emission fees, a mutually-agreed-upon, more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive requirement must be specified on the permit, and must include the method used to determine compliance with the limitation. The documentation procedure to be followed by the major source must also be included to insure that the limit is not exceeded. Restructuring the allowable emissions is permissible only in the annual accounting periods of eligibility specified in Part 1200-03-26-.02(9)(b)1 and only, if the written request for restructuring is filed with the Technical Secretary at least 120 days prior to the beginning of the annual accounting period of eligibility.
  - (ii) To reduce the amount of the fee as provided in subpart (i) of this part, the responsible official must file a complete permit modification or construction permit application with the Division at least ninety (90) days prior to December 31 of the annual accounting period.
  2. Beginning with the annual accounting period beginning July 1, 1997 to June 30, 1998, major sources paying on allowable based emission fees will be billed by the Division no later than April 1 prior to the end of the accounting period. The major source annual emission fee is due July 1 following the end of the accounting period. The responsible official shall file the annual emission fee and an analysis of actual emissions, allowable emissions, or both actual and allowable emissions, whichever is appropriate due to the basis of the annual emission fee payment, with the Technical Secretary on or before the July 1 immediately following the annual accounting period. The analysis shall summarize the emissions of all regulated pollutants at the air contaminant sources of the major source facility and shall be used to calculate the amount of the annual emission fee owed pursuant to subparagraph (a) of this paragraph.

- ~~(i) An annual emission fee based on both actual emissions and allowable emissions shall be calculated utilizing the 4,000 ton per year cap specified in subparagraph (2)(i) of this rule. In determining the tonnages to be applied toward the regulated pollutant 4,000 ton cap in a mixed base fee, the responsible official shall first calculate the actual emission-based fees for a regulated pollutant and apply that tonnage toward the regulated pollutant's cap. The remaining tonnage available in the 4,000 ton category of a regulated pollutant shall be subject to allowable emission based fee calculations. Once the 4,000 ton per year cap has been reached for a regulated pollutant, no additional fee for that pollutant shall be required.~~
  - ~~(ii) If the responsible official chooses to base the annual emission fee on actual emissions, then the responsible official must prove the magnitude of the major source's emissions to the satisfaction of the Technical Secretary. The procedure for quantifying actual emission rates shall be specified in the major source operating permit.~~
- 3.
  - ~~(i) Responsible officials choosing to pay the major source annual emission fee based on actual emissions or a mixture of actual and allowable emissions may request an extension of time for filing the emissions analysis with the Technical Secretary. The extension may be granted by the Technical Secretary for up to ninety (90) days. The request for extension must be received by the Division no later than 4:30 p.m. on July 1, or the request for extension shall be denied. The request for extension to file must state the reason for the request and provide an adequate explanation. An estimated annual emission fee payment of no less than eighty percent (80%) of the fee due July 1 must accompany the request for extension to avoid penalties and interest on the underpayment of the annual emission fee. A remaining balance due must accompany the emission analysis. If there has been an overpayment, the responsible official may request a refund in writing to the Division or the amount of the overpayment may be applied as a credit toward the next annual emission fee. Beginning with the annual accounting period beginning July 1, 1997 to June 30, 1998, major sources choosing an actual based annual emission fee shall file an actual emissions analysis with the Technical Secretary which summarizes the actual emissions of all regulated pollutants at the air contaminant sources of their facility. Based upon the actual emissions analysis, the source shall calculate the fee due and submit the payment and the analysis each July 1st following the end of the annual accounting period.~~
  - ~~(ii) A responsible official choosing to pay the annual emission fee based on a calendar year annual accounting period or choosing to pay the annual emission fee based on allowable emissions is not eligible for the extension of time authorized by subpart (i) of this part.~~
- 4. ~~Beginning with the annual accounting period beginning July 1, 1997 to June 30, 1998, major sources choosing a mixture of allowable and actual based emission fees shall file an actual emissions and allowable emissions analysis with the Technical Secretary which summarizes the actual and allowable emissions of all regulated pollutants at the air contaminant sources of their facility. Based upon the analysis, the source shall calculate the fee due and submit the payment and the analysis each July 1st following the end of the annual accounting period.~~
  - ~~(i) The mixed based fee shall be calculated utilizing the 4,000 ton cap specified in subparagraph 1200-03-26-02 (2) (i). In determining the tonnages to be applied toward the regulated pollutant 4,000 ton cap in a mixed based fee, the source shall first calculate the actual emission based fees for a regulated pollutant and apply that tonnage toward the regulated pollutant's cap. The remaining tonnage available in the 4,000 ton category of a regulated pollutant shall be subject to allowable emission based fee calculations for the sources that were not included~~

~~in the actual emission-based fee calculations. Once the 4,000 ton cap has been reached for a regulated pollutant, no additional fee shall be required.~~

- ~~5. Major sources choosing to pay their major source annual emission fee based on actual based emissions or a mixture of allowable and actual based emissions may request an extension of time to file their emissions analysis with the Technical Secretary. The extension may be granted by the Technical Secretary up to ninety (90) days. The request for extension must be received by the Division no later than 4:30 p.m. on July 1 or the request for extension shall be denied. The request for extension to file must state the reason and give an adequate explanation. An estimated annual emission fee payment of no less than eighty percent (80%) of the fee due July 1 must accompany the request for extension to avoid penalties and interest on the underpayment of the annual emission fee. A remaining balance due must accompany the emission analysis. If there has been an overpayment, a refund may be requested in writing to the Division or be applied as a credit toward next year's major source annual emission fee. The request for extension of time is not available to major sources choosing to pay their major source annual emission fee based on allowable emissions.~~
- (h) ~~Reserved.~~ Newly constructed major sources or minor existing sources modifying their operations such that they become a major source in the midst of the standard July 1st to June 30th annual accounting period, shall pay allowable based annual emission fees for the fractional remainder of the annual accounting period commencing upon their start up. At the beginning of the next annual accounting period, the "responsible official" of the source may choose to pay annual emission fees based on actual or allowable emissions or a mixture of the two as provided for in this rule 1200-03-26-02.
- (i) Deleted Reserved.

Authority: T.C.A. §§ 68-201-105 et seq. and 4-5-202 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)
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants				X	
<b>Karen Cisler</b> Environmental Interests	X				
<b>Dr. Wayne T. Davis</b> Conservation Interests	X				
<b>Stephen Gossett</b> Working for Industry with technical experience	X				
<b>Dr. Shawn A. Hawkins</b> Working in field related to Agriculture or Conservation	X				
<b>Richard Holland</b> Working for Industry with technical experience	X				
<b>L. Shawn Lindsey</b> Working in Municipal Government				X	
<b>Dr. Tricia Metts</b> Involved with Institution of Higher Learning on air pollution evaluation and control	X				
<b>Chris Moore</b> Working in management in Private Manufacturing	X				
<b>John Roberts</b> Small Generator of Air Pollution representing Automotive Interests	X				
<b>Amy Spann</b> Registered Professional Engineer	X				
<b>David Owenby</b> Commissioner's Designee, Dept. of Environment and Conservation	X				
<b>Larry Waters</b> County Mayor	X				
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development				X	

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 11/12/2015, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/10/15

Rulemaking Hearing(s) Conducted on: (add more dates). 11/02/15

Date: November 16, 2015

Signature: \_\_\_\_\_

Name of Officer: Barry R. Stephens, P.E.

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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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.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

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

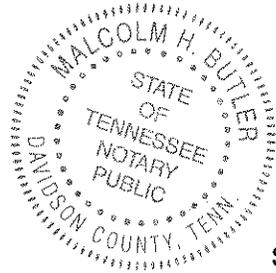
Board Member	Aye	No	Abstain	Absent	Signature (if required)
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants				X	
<b>Karen Cisler</b> Environmental Interests	X				
<b>Dr. Wayne T. Davis</b> Conservation Interests	X				
<b>Stephen Gossett</b> Working for Industry with technical experience	X				
<b>Dr. Shawn A. Hawkins</b> Working in field related to Agriculture or Conservation	X				
<b>Richard Holland</b> Working for Industry with technical experience	X				
<b>L. Shawn Lindsey</b> Working in Municipal Government				X	
<b>Dr. Tricia Metts</b> Involved with Institution of Higher Learning on air pollution evaluation and control	X				
<b>Chris Moore</b> Working in management in Private Manufacturing	X				
<b>John Roberts</b> Small Generator of Air Pollution representing Automotive Interests	X				
<b>Amy Spann</b> Registered Professional Engineer	X				
<b>David Owenby</b> Commissioner's Designee, Dept. of Environment and Conservation	X				
<b>Larry Waters</b> County Mayor	X				
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development				X	

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 11/12/2015, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/10/15

Rulemaking Hearing(s) Conducted on: (add more dates). 11/02/15



Date: 11-16-2015

Signature: [Handwritten Signature]

Name of Officer: Barry R. Stephens, P.E.

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: 11-16-2015

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.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter  
1/5/2016  
Date

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Effective on: 4/5/16

[Handwritten Signature]  
Tre Hargett  
Secretary of State



## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Safety

DIVISION: Legal

SUBJECT: Rules and Regulations for Access to Public Records; Sale of Motor Vehicle Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-3-2009, 8-4-604(a)(1), 10-7-501 et. seq., and 55-50-204

EFFECTIVE DATES: April 10, 2016, through June 30, 2017

FISCAL IMPACT: Minimal. Currently, only two companies would be affected by the change in rate for the expanded format, resulting in an annual estimated state revenue increase of just under ninety-three thousand dollars (\$93,000).

STAFF RULE ABSTRACT: This rule amends 1340-08-01-.04, relative to the sale of bulk motor vehicle records (driver records), setting forth the cost for obtaining bulk driver record data from the Department of Safety, depending on the amount of information requested, and clarifies the charge if less than twelve (12) months of data are requested, or data more than sixty (60) days old is requested.

**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 proposed rule would not affect small businesses.

### **Impact on Local Governments**

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

The Department of Safety states that this rule change will not have an impact on local governments.



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**For Department of State Use Only**

Sequence Number: 01-11-16  
Rule ID(s): 6103  
File Date: 1/11/16  
Effective Date: 4/10/16

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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 ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*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).*

<b>Agency/Board/Commission:</b>	Tennessee Department of Safety & Homeland Security
<b>Division:</b>	Legal
<b>Contact Person:</b>	Lizabeth Hale
<b>Address:</b>	312 Rosa L. Parks Avenue, 25 <sup>th</sup> Floor, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-251-5349
<b>Email:</b>	<a href="mailto:Lizabeth.Hale@tn.gov">Lizabeth.Hale@tn.gov</a>

**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
1340-08-01	Rules And Regulations for Access to Public Records
Rule Number	Rule Title
1340-08-01-.04	Sale of Motor Vehicle Records

Chapter Number	Chapter Title
Rule Number	Rule Title

(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://sos.tn.gov/sites/default/files/forms/Rulemaking\\_Guidelines\\_August2014.pdf](http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf))

Rule 1340-08-01-.04 is amended by deleting paragraph (3) and substituting instead the following language, and adding new paragraphs (4) and (5):

~~(3) For the recurrent preparing and furnishing of portions of multiple or all individual MVRs, the department shall be paid 4/100 of a dollar, per year, for each licensed driver in the state of Tennessee for that year. The total fee per year shall be based on the total number of licensed drivers in the state as of January 1, 2010, and shall be divided and paid in 12 equal monthly payments. The number of licensed records used for calculating the payment shall be adjusted on January 1 of every year.~~

~~(a) For the purpose of this rule, "recurrent" means monthly or other frequent periodic time interval determined by the department.~~

~~(b) Recurrent requests shall be furnished in electronic format only.~~

(3) Recurrent Bulk Purchases

(a) For the purposes of this rule:

1. "Recurrent" means monthly or other frequent periodic time interval determined by the department.

2. "Standard Format" means the three files furnished by the Department which include the following:

(i) All Driver File: contains demographic information on all drivers in Tennessee at the time the file is created, other than the social security number.

(ii) Monthly Violations File: contains demographic information of all drivers that had a violation event during the previous month, including the date of any violation event, but excluding the social security number.

(iii) Monthly Revocations and Suspensions File: contains all drivers who had a revocation event during the previous month, including the date of any revocation event, but excluding the social security number.

3. "Expanded Format" means the three files furnished by the Department which include the following:

(i) All Driver File: contains demographic information on all drivers in Tennessee at the time the file is created, other than the social security number.

(ii) Monthly Violations File: contains demographic information of all drivers that had a violation event during the previous month, including the nature of any violation event, furnished as a history action code, but excluding the social security number.

(iii) Monthly Revocations and Suspensions File: contains all drivers who had a revocation event during the previous month, including the nature of any revocation event, furnished as a history action code, but excluding the social security number.

(b) For the recurrent preparing and furnishing of portions of multiple or all individual MVRs in Standard Format, the department shall be paid 4/100 of a dollar, per year, for each licensed driver in the state of Tennessee for that year. The total fee per year shall be based on the total number of licensed drivers in the state as of January 1, 2010, and shall be divided and paid in 12 equal monthly payments. The number of licensed records used for calculating the payment shall

be adjusted on January 1 of every year.

(c) For the recurrent preparing and furnishing of portions of multiple or all individual MVRs in Expanded Format, the department shall be paid 5/100 of a dollar, per year, for each licensed driver in the state of Tennessee for that year. The total fee per year shall be based on the total number of licensed drivers in the state as of January 1, 2010, and shall be divided and paid in 12 equal monthly payments. The number of licensed records used for calculating the payment shall be adjusted on January 1 of every year.

(d) Recurrent requests shall be furnished in electronic format only.

(e) Requests made for less than twelve (12) months of recurring data in a calendar year shall be priced at the monthly fee calculated under subparagraph (b) for Standard Format or subparagraph (c) for Expanded Format for each month requested.

(4) Historical Driver License Data

(a) For the purposes of this rule, "Historical Driver License Data" means data, either in Expanded or Standard Format, which is more than sixty (60) days old, determined from the date of the request.

(b) For the preparing and furnishing of portions of Historical Driver License Data for multiple or all individual MVRs, the Department shall charge 1/12 of the fee calculated under subparagraph (3)(b) for Standard Format requests or subparagraph (3)(c) for Expanded Format requests in the year in which the request is made, for each separate request made.

(c) Historical Driver License Data requests shall be furnished in electronic format only.

(5) All bulk requests, whether one time or recurrent, and all Historical Driver License data requests shall be accompanied by a statement on form SF-1289 (available at <http://www.tn.gov/assets/entities/safety/attachments/dppa.pdf>), filled out in its entirety, indicating the request falls under one of the approved categories authorized by the Driver Privacy Protection Act of 1994 (18 U.S.C. §§ 2721-2725) and the Uniform Motor Vehicle Records Disclosure Act (Tenn. Code Ann. § 55-25-101 et seq.) A new form may be required at the start of the calendar year for recurrent requests to verify the approved categories are still applicable to the requestor.

Authority: T.C.A. §§ 4-3-2009, 8-4-604(a)(1), 10-7-501 et seq., and 55-50-204.

\* 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)

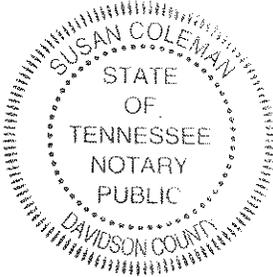
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Safety & Homeland Security on 12/15/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 12/18/15

Signature: Bill Gibbons

Name of Officer: Bill Gibbons

Title of Officer: Commissioner



Subscribed and sworn to before me on: December 18, 2015

Notary Public Signature: Susan Coleman

My commission expires on: May 8, 2019

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.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter

12/23/2015  
Date

**Department of State Use Only**

Filed with the Department of State on: 1/11/16

Effective on: 4/10/16

Tre Hargett  
Tre Hargett  
Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Safety

DIVISION: Highway Patrol

SUBJECT: P25 Interoperable Communications System (Tennessee Advanced Communications Network)

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 4-3-2018

EFFECTIVE DATES: April 28, 2016, through June 30, 2017

FISCAL IMPACT: It is estimated that currently the revenue for the Department of Safety would increase by six hundred fifty thousand dollars (\$650,000) per year, but the revenue would be offset by the expenditures of 3.5 million dollars (\$3,500,000) per year for the maintenance and support of the system. This rule may have a projected impact on local government, if the local government chooses to participate in the TACN. Local governments' expenditures could increase or decrease depending on the particular government's current radio system maintenance coverage.

STAFF RULE ABSTRACT: The rule proposed will establish procedures for constructing, operating, maintaining, enhancing, accessing, and collecting fees for the P25 Interoperable Communications System, also known as the Tennessee Advanced Communications Network (TACN). This rule is new and is not an amendment to an existing rule.

**Regulatory Flexibility Addendum**

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

These new rules will not affect small businesses.

### **Impact on Local Governments**

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

This Rule may have a projected impact on local government, if the local government chooses to participate in the TACN. Local governments' expenditures could increase or decrease depending on the particular government's current radio system maintenance coverage.



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Sequence Number: 01-21-16  
Rule ID(s): 6117  
File Date: 1/29/16  
Effective Date: 4/28/16

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.*

*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).*

<b>Agency/Board/Commission:</b>	Tennessee Department of Safety and Homeland Security
<b>Division:</b>	Highway Patrol
<b>Contact Person:</b>	Sandra Braber-Grove
<b>Address:</b>	312 Rosa L. Parks Avenue, 25 <sup>th</sup> Floor Snodgrass/TN Tower, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-251-6301
<b>Email:</b>	sandra.braber-grove@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
1340-03-08	P25 Interoperable Communications System (Tennessee Advanced Communications Network [TACN])
Rule Number	Rule Title
1340-03-08-.01	Purpose
1340-03-08-.02	Definitions
1340-03-08-.03	TACN Participation
1340-03-08-.04	Fees
1340-03-08-.05	Authorization

RULES  
OF  
TENNESSEE DEPARTMENT OF SAFETY  
AND HOMELAND SECURITY  
HIGHWAY PATROL DIVISION

CHAPTER 1340-03-08  
P25 INTEROPERABLE COMMUNICATIONS SYSTEM  
(TENNESSEE ADVANCED COMMUNICATIONS NETWORK)

TABLE OF CONTENTS

1340-03-08-.01 Purpose  
1340-03-08-.02 Definitions  
1340-03-08-.03 TACN Participation  
1340-03-08-.04 Fees  
1340-03-08-.05 Authorization

1340-03-08-.01 Purpose.

To establish procedures and rules for constructing, operating, maintaining, enhancing, accessing, and collecting fees for the P25 Interoperable Communications System, also known as the Tennessee Advanced Communications Network (TACN).

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

1340-03-08-.02 Definitions.

- (1) "Commissioner" means the Commissioner of the Department of Safety and Homeland Security.
- (2) "Contract" means an agreement between the TACN User and the Department to facilitate participation in the TACN.
- (3) "Department" means the Department of Safety and Homeland Security acting directly or through its duly authorized officers and agents and shall be the governing authority over the TACN.
- (4) "Director" means the Wireless Communications Director appointed by the Commissioner. The Director shall have the authority on day-to-day operational decisions for the TACN. Additionally, the Director will be responsible for the approval of requests for use of the TACN and management of the TACN Contracts.
- (5) "Fees" mean the amount contributed for constructing, operating, maintaining, enhancing, and establishing access to the TACN.
- (6) "STS" means Strategic Technology Solutions, a division within the Department of Finance and Administration acting directly or through its duly authorized officers and agents to provide direction, planning, resources, execution, and coordination in managing the information systems needs of the State of Tennessee. STS was formerly known as OIR, the Tennessee Department of Finance and Administration's Office for Information Resources.
- (7) "TACN" means the Tennessee Advanced Communications Network that is the P25 Interoperable Communications System.
- (8) "TACN Advisory Committee" means the Tennessee Advanced Communication Network Advisory Committee and is composed of Commissioners or their designees from the Department, TDOC, TDOT, the Chief Information Officer of STS, the Director of TEMA, a representative from the TVRCS, and at least

one TACN User representative from each of the following local government disciplines: law enforcement, fire, emergency medical services, and emergency management agencies. The TACN Advisory Committee advises on the management and operation of the TACN. The Commissioner or his designee shall be the chair of the Committee and shall have the discretion to select TACN User representatives, add additional members, and establish working subcommittees.

- (9) "TACN Site" means any State of Tennessee owned or leased property where the Department has constructed a building and/or tower for the TACN.
- (10) "TACN User" means a Director-approved entity that enters into a Contract with the Department for the purpose of participating in the TACN.
- (11) "TDOC" means the Tennessee Department of Correction acting directly or through its duly authorized officers and agents.
- (12) "TDOT" means the Tennessee Department of Transportation acting directly or through its duly authorized officers and agents.
- (13) "TEMA" means the Tennessee Emergency Management Agency acting directly or through its duly authorized officers and agents.
- (14) "TVRCS" means the Tennessee Valley Regional Communications System acting directly or through its duly authorized officers and agents.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

#### 1340-03-08-.03 TACN Participation.

- (1) A potential TACN User must submit a written request for participation in TACN to the Director.
- (2) The request shall be reviewed by the Director and if approved, a Contract shall be sent either electronically or by U.S. Mail to the potential TACN User by the Department.
- (3) A Contract will be prepared using the Department of General Services' Central Procurement Office's templates in effect at the time of the request. Any contract negotiations shall be conducted in accordance with Tennessee procurement laws, rules, policies, and procedures.
- (4) A Contract shall be fully executed in accordance with the Tennessee procurement process prior to any use of the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

#### 1340-03-08-.04 Fees.

- (1) The Department shall have exclusive authority for constructing, operating, maintaining, enhancing, establishing access to, and the collection of fees for, the TACN.
- (2) A Contract shall set forth the fees to be collected by the Department.
- (3) Any assessments collected by the Department pursuant to these Rules shall be expendable receipts of the Department for use in maintaining the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

- (1) Tennessee Code Annotated (T.C.A.) § 4-3-2009 authorizes the Commissioner to establish and to promulgate rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Commissioner and that are not inconsistent with the laws of Tennessee. T.C.A. § 4-3-2018 authorizes the Department to promulgate rules and regulations regarding access to the statewide P25 interoperable communications system, including the authority to collect, by rules or regulations, assessments for the use and/or maintenance of the system. Any other Rule or Rules by other agencies that attempt to govern radio or communication systems that conflict with the TACN Rules shall be superseded and the Department's Rules governing the TACN and the TACN Site shall have precedence.
- (2) The Commissioner shall have the authority to waive any and all of the Rules of this section as necessary to maintain the integrity and interoperability of the P25 Interoperable Communications system known as the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

\* 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 Tennessee Highway Patrol on November 10, 2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11-10-15

Signature: *[Signature]*

Name of Officer: DERECK STEWART

Title of Officer: LIEUTENANT COLONEL



Subscribed and sworn to before me on: 11-10-15

Notary Public Signature: *Ashley L. Holland*

My commission expires on: 5-3-16

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.

*Herbert H. Slatery III*

Herbert H. Slatery III  
Attorney General and Reporter

1/15/2016

Date

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Filed with the Department of State on: 1/29/16

Effective on: 4/28/16

*Tre Hargett*

Tre Hargett  
Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

**DEPARTMENT:** Safety

**DIVISION:** Driver Services Division

**SUBJECT:** Driving Skills Testing; Driver Education Courses in Public and Private Schools

**STATUTORY AUTHORITY:** Tennessee Code Annotated, Sections 4-5-101 et seq.

**EFFECTIVE DATES:** April 28, 2016 through June 30, 2017

**FISCAL IMPACT:** Minimal

**STAFF RULE ABSTRACT:** The proposed rule allows public and private schools that offer driver education courses to perform the driving skills test for students who have completed the school's driver education program but are still enrolled in the school.

**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 change will not affect small businesses.

### **Impact on Local Governments**

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

This change will not impact local governments.



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Sequence Number: 01-22-16  
Rule ID(s): 6118  
File Date: 1/29/16  
Effective Date: 4/28/16

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.*

*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).*

<b>Agency/Board/Commission:</b>	Tennessee Department of Safety & Homeland Security
<b>Division:</b>	Driver Services Division
<b>Contact Person:</b>	Lizabeth Hale
<b>Address:</b>	312 Rosa L. Parks Ave, 25 <sup>th</sup> Floor
<b>Zip:</b>	37243
<b>Phone:</b>	615-251-5349
<b>Email:</b>	Lizabeth.Hale@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
1340-01-13	Rules of Classified and Commercial Driver Licenses and Certificates for Driving
Rule Number	Rule Title
1340-01-13-.22	Third Party Testing

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

Rule 1340-01-13-.22(7)(d) is amended by deleting the current language:

Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate.

And substituting instead the language:

Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate. Public school systems, public institutions of higher learning, and non-public schools in categories 1, 2, or 3 as recognized by the state board of education who participate in Driver Education courses are authorized to administer skills tests to students who have completed the Driver Education course described in the agency's application to participate if the student is still enrolled in the school as a student, and has not transferred to any other school after completing the Driver Education course.

Authority: T.C.A. §§4-5-101 et seq., 55-50-202, 55-50-321, 55-50-322, 55-50-323, 55-50-331, 55-50-405, 55-50-502, Public Chapter No. 194, 2007 and 49 C.F.R. §383 (1992).

#### (7) C.D.T.P. Testing Standards and Administration

(a) Students shall be exempt from the Class D knowledge test administered by the Department if they answer correctly eighty percent (80%) of the questions contained in a standard knowledge test developed by the Department and administered through the C.D.T.P. in a supervised setting, with the instructor present. Oral versions of the test are prohibited. The knowledge test must contain one fourth (1/4) of the questions concerning drugs and alcohol and may only be administered after the student has completed the classroom component of the course.

(b) Students shall be exempt from the Class D driving test administered by the Department if they demonstrate an ability to drive safely at a level considered by the instructor as acceptable for licensing. The basis for determining acceptable driving ability shall include, but not be limited to, an assessment of the student's driving competence with respect to skills, judgment, and perception. The driving test must meet minimum standards set forth by the Department in related C.D.T.P. policies and procedures issued to participating agencies and may be given only at the conclusion of the course, after the student has completed both the classroom and driving portions of the course.

(c) Test scores shall be valid for ninety (90) days from the date of the Third Party Driver Examiner test certification form.

~~(d) Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate.~~ Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate. Public school systems, public institutions of higher learning, and non-public schools in categories 1, 2, or 3 as recognized by the state board of education who participate in Driver Education courses are authorized to administer skills tests to students who have completed the Driver Education course described in the agency's application to participate if the student is still enrolled in the school as a student, and has not transferred to any other school after completing the Driver Education course.

\* 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)

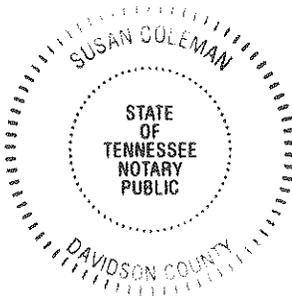
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Safety and Homeland Security on October 22, 2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11-5-15

Signature: Lori Bullard

Name of Officer: Lori Bullard

Title of Officer: Assistant Commissioner, Driver Services



Subscribed and sworn to before me on: 11-5-2015

Notary Public Signature: Susan Coleman

My commission expires on: May 6, 2019

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.

Herbert H. Slattery III  
Herbert H. Slattery III  
Attorney General and Reporter  
1/5/2016 Date

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Filed with the Department of State on: 1/29/16

Effective on: 4/28/16

Tre Hargett

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Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Board for Licensing Care Facilities

SUBJECT: Building Standards

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 68-11-202, 68-11-204, 68-11-206, and 68-11-209

EFFECTIVE DATES: April 20, 2016 through June 30, 2017

FISCAL IMPACT: The agency reports that the proposed rule amendments should not result in any increase or decrease in state or local government revenues or expenditures.

STAFF RULE ABSTRACT: Rules including: 1200-08-01-.08(2), 1200-08-02-.07(2), 1200-08-06-.08(2), 1200-08-10-.08(2), 1200-08-11-.07(2), 1200-08-15-.08(2), 1200-08-24-.07(2), 1200-08-25-.09(2), 1200-08-28-.08(2), 1200-08-32-.08(2), 1200-08-35-.08(2), and 1200-08-36-.11(3) are being amended by removing all references to specific editions of certain codes and replacing each paragraph with the following language: "After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities (FGI), including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply."

## **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.

Chris Puri, an attorney, through a representative, addressed the Board requesting that it notify the public at open board meetings when new building codes are passed and when they become effective. Bill Harmon, the director of Plans Review, stated that his department sends out notifications when new codes are passed.

The Board agreed to address this issue, by having a member of Plans Review report to meetings when new codes are passed.

### **Regulatory Flexibility Addendum**

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

### **REGULATORY FLEXIBILITY ANALYSIS**

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These 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 rules do not create flexible compliance and/or reporting requirements for small businesses.

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

These rules do not involve schedules or deadlines for compliance or reporting requirements for small businesses.

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

These rules do not consolidate or simplify compliance reporting requirements for small businesses.

- (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 for Licensing Health Care Facilities

**Rulemaking hearing date:** January 21, 2015

**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 following facility types governed by the Board for Licensing Health Care Facilities will be affected by these proposed rule amendments: hospitals 130, nursing homes 327, ambulatory treatment centers 160, homes for the aged 84, assisted care living facilities 267, end stage renal dialysis clinics 171, outpatient diagnostic centers 40, birthing centers 3, residential hospices 8, and adult care homes 2. HIV supportive living centers as well as prescribed child care centers would also be affected by these amendments. Currently, however, there are no such licensed facilities in Tennessee. There should be no additional cost associated with these rules amendments. The Board wishes to remove references to specific editions of the building codes in the current rules so that rulemaking is not necessary each time the editions change.

**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:**

There are no reporting, recordkeeping or other administrative costs required for compliance with the proposed rule.

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

These rules should have a minimal impact on small business and consumers as the rule is only being amended to refer to the most current editions of applicable codes. Under the old rules, the facilities still had the same requirements and costs but the specific codes were referenced in the rule. The rule is being amended to prevent the Board from having to rewrite the rules every two years as new editions are published.

**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:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose of the proposed rule amendments.

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

Federal: The National Fire Protection Association (NFPA) code.

State: All states must follow the NFPA; states can, however, have varying building codes. Tennessee has adopted the International Building Code which has also been adopted by 60-80 percent of other states. Other states write their own codes or follow the Building Officials and Code Administrator.

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

These rules do not provide for any exemptions for small businesses.

### **Impact on Local Governments**

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

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



7

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**For Department of State Use Only**

Sequence Number: 01-17-16  
Rule ID(s): 6105-6116  
File Date: 1/21/16  
Effective Date: 4/20/16

# 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).

<b>Agency/Board/Commission:</b>	Department of Health
<b>Division:</b>	Board for Licensing Health Care Facilities
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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)**

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-01	Standards for Hospitals
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-01-08	Building Standards

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-02	Standards for Prescribed Child Care Centers
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-02-07	Building Standards

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-06	Standards for Nursing Homes
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-06-08	Building Standards

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-10	Standards for Ambulatory Surgical Treatment Centers
<b>Rule Number</b>	<b>Rule Title</b>

1200-08-10-08	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-11	Standards for Homes for the Aged
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-11-07	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-15	Standards for Residential Hospices
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-15-08	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-24	Standards for Birthing Centers
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-24-07	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-25	Standards for Assisted-Care Living Facilities
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-25-09	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-28	Standards for HIV Supportive Living Centers
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-28-08	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-32	Standards for End Stage Renal Dialysis Clinics
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-32-08	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-35	Standards for Outpatient Diagnostic Centers
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-35-08	Building Standards
<b>Chapter Number</b>	<b>Chapter Title</b>
1200-08-36	Standards for Adult Care Homes-Level 2
<b>Rule Number</b>	<b>Rule Title</b>
1200-08-36-11	Building Standards

(Rule 1200-08-01-.07, continued)

- (d) Facilities for social work services shall be readily accessible and shall permit privacy for interviews and counseling.
- (11) Psychiatric Services.
- (a) If a hospital provides psychiatric services, a psychiatric unit devoted exclusively for the care and treatment of psychiatric patients and professional personnel qualified in the diagnosis and treatment of patients with psychiatric illnesses shall be provided. Adequate protection shall be provided for patients and the staff against any physical injury resulting from a patient becoming violent. A psychiatric unit shall meet the requirements as needed to care for patients admitted, either through direct care or by contractual arrangements.
  - (b) A hospital licensed by the Department of Health as a satellite hospital whose primary purpose is the provision of mental health or mental retardation services, must verify to the Department that Standards of the Department of Mental Health and Mental Retardation are satisfied.
- (12) Alcohol and Drug Services.
- (a) If a hospital provides alcohol and drug services, the service shall be devoted exclusively to the care and treatment of alcohol and drug dependent patients and have on staff physicians and other professional personnel qualified in the diagnosis and treatment of alcoholism and drug addiction.
  - (b) Adequate protection shall be provided for the patients and staff against any physical injury resulting from a patient becoming disturbed or violent. Alcohol and drug services shall meet the requirements as needed to care for patients admitted, either through direct care or by contractual arrangements.
- (13) Perinatal and/or Neonatal Care Services. Any hospital providing perinatal and/or neonatal care services shall comply with the Tennessee Perinatal Care System Guidelines for Regionalization, Hospital Care Levels, Staffing and Facilities developed by the Tennessee Department of Health's Perinatal Advisory Committee, June 1997 including amendments as necessary.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-209, 68-57-101, 68-57-102, 68-57-104 and 68-57-105. **Administrative History:** Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed June 12, 2003; effective August 26, 2003. Amendment filed July 27, 2005; effective October 10, 2005. Amendment filed February 23, 2006; effective May 9, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed January 3, 2012; effective April 2, 2012.

#### **1200-08-01-.08 BUILDING STANDARDS.**

- (1) A hospital shall construct, arrange, and maintain the condition of the physical plant and the overall hospital environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006~~

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

~~edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~

- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) A licensed contractor shall perform all new construction and renovations to hospitals, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in hospitals, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new hospital shall be constructed, nor shall major alterations be made to an existing hospital without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new hospital is licensed or before any alteration or expansion of a licensed hospital can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot (1/8" = 1'), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An

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

architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.

- (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
  - (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
  - (10) Architectural drawings shall include where applicable:
    - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
    - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
    - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
    - (d) The elevation of each facade;
    - (e) The typical sections throughout the building;
    - (f) The schedule of finishes;
    - (g) The schedule of doors and windows;
    - (h) Roof plans;
    - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
    - (j) Code analysis.
  - (11) Structural drawings shall include where applicable:
    - (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
    - (b) Schedules of beams, girders and columns; and
    - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.

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

- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or

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

engineer submits complete plans and specifications for the installation, alteration or extension, to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.

- (a) Before the hospital is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each hospital:
- (a) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;
  - (b) Rooms and areas containing radiation producing machines or radioactive material must have primary and/or secondary barriers to assure compliance with Regulations for Protection Against Radiation and security for materials. Radiation material shall be required to be stored and security must be provided in accordance with federal and state regulations to prevent exposure of the material to theft or tampering.
- (19) When constructing new facilities or during major renovations to the operating suites, the hospital shall ensure that male and female physicians and staff have equitable proportional locker facilities including equal equipment, and similar amenities, with equal access to uniforms. Existing hospitals shall strive to have equitable male and female facilities. If physical changes are required, the additional areas shall maintain the flow and divisions in the sterile environments.
- (20) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (21) In the event submitted materials do not appear to satisfactorily comply with 1200-08-01-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (22) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (23) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-01-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

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

- (24) Prior to final inspection a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (25) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms;
  - (b) Generators (if applicable); and
  - (c) Medical gas alarms (if applicable).
- (26) Each hospital shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216 and 68-11-261. **Administrative History:** Original rule filed March 18, 2000; effective May 30, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed September 6, 2005; effective November 20, 2005. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### 1200-08-01-.09 LIFE SAFETY.

- (1) Any hospital which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The hospital shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. Fire drills shall be held at least quarterly for each work shift for hospital personnel in each separate patient-occupied hospital building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of patient(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216. **Administrative History:** Original rule filed March 18, 2000; effective May 30, 2000. Amendments filed September 6, 2005; effective November 20, 2005.

#### 1200-08-01-.10 INFECTIOUS WASTE AND HAZARDOUS WASTE.

- (1) Each hospital must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous wastes. These policies and procedures must comply with the standards of this section and all other applicable state and federal regulations.

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

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

**Authority:** §§ 4-5-202, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216, and 68-11-222. **Administrative History:** Original rule filed June 13, 2002; effective August 27, 2002. Amendment filed December 16, 2013; effective March 16, 2014.

#### 1200-08-02-.07 BUILDING STANDARDS.

- (1) A PCCC shall construct, arrange, and maintain the condition of the physical plant and the overall facility environment in such a manner that the safety and well-being of the occupants are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to PCCCs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in PCCCs, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new PCCC shall be constructed, nor shall major alterations be made to an existing PCCC without prior written approval of the department, and unless in accordance with plans and

(Rule 1200-08-02-.07, continued)

specifications approved in advance by the department. Before any new PCCC is licensed or before any alteration or expansion of a licensed PCCC can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;

(Rule 1200-08-02-.07, continued)

- (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.

(Rule 1200-08-02-.07, continued)

- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
  - (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension, to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
  - (a) Before the PCCC is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each PCCC a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-02-.07(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-02-.07(2). This approval shall in no way permit and/or authorize any omission or

(Rule 1200-08-02-.07, continued)

deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms;
  - (b) Generators (if applicable); and
  - (c) Medical gas alarms (if applicable).

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.  
**Administrative History:** Original rule filed June 13, 2002; effective August 27, 2002. Amendment filed February 18, 2003; effective May 4, 2003. Amendment filed June 21, 2007; effective September 4, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### 1200-08-02-.08 LIFE SAFETY.

- (1) Any prescribed child care center which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The prescribed child care center shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Records which document and evaluate these incidents must be maintained for at least three (3) years.
- (3) The prescribed child care center shall have a written emergency plan to document instructions to staff, upon employment, and clients, upon enrollment, in fire evacuation procedures. The plan shall include actions to be taken in inclement weather and internal and external emergencies. Evacuation plans shall be posted in prominent areas such as reception areas, near door in class rooms, etc. and shall designate meeting places outside the building in event of emergencies.
- (4) Corridor doors shall not have louvers.
- (5) Battery powered emergency lighting shall be installed in corridors, common areas and in stair ways.
- (6) Corridors shall be lighted at all times, to a minimum of one foot candle.
- (7) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (8) Corridors in multi-storied buildings shall have two exits remote from each other. At least one exit shall be directly to the outside.

(Rule 1200-08-06-.07, continued)

- (e) Communicating with families and other persons interested in the resident.
- (11) Each resident shall have a treatment plan developed, periodically reviewed and implemented by an interdisciplinary treatment team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a registered nurse, a social worker, an activity coordinator and a relative of the resident or a resident care advocate.
- (12) A protocol for identifying and alleviating job related stress among staff on the special care unit must be developed and carried out.
- (13) The staff of the unit shall organize a support group for families of residents which meets at least quarterly for the purpose of:
  - (a) Providing ongoing education for families;
  - (b) Permitting families to give advice about the operation of the unit;
  - (c) Alleviating stress in family members; and
  - (d) Resolving special problems relating to the residents in the unit.

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-1404.  
**Administrative History:** Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Repeal and new rule filed January 31, 2000; effective April 15, 2000.

**1200-08-06-.08 BUILDING STANDARDS.**

- (1) A nursing home shall construct, arrange, and maintain the condition of the physical plant and the overall nursing home environment in such a manner that the safety and well-being of the residents are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced

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International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.

- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to nursing homes, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in nursing homes, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new nursing home shall be constructed, nor shall major alterations be made to an existing nursing home without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new nursing home is licensed or before any alteration or expansion of a licensed nursing home can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.

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

- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
  - (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
  - (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.

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

- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the nursing home is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.

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

- (18) It shall be demonstrated through the submission of plans and specifications that in each nursing home a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-06-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-06-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms;
  - (b) Generators (if applicable); and
  - (c) Medical gas alarms (if applicable).
- (25) Each nursing home shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-57, 68-11-261. **Administrative History:** Original rule filed March 27, 1975; effective April 25, 1975. Repeal and new rule filed July 14, 1983; effective August 15, 1983. Amendment filed July 3, 1984; effective August 1, 1984. Amendment filed March 13, 1986; effective April 12, 1986. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed February 11, 1992; effective March 27, 1992. Amendment filed January 6, 1995; effective March 22, 1995. Amendment filed June 13, 1997; effective August 27, 1997. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed September 21, 2005; effective December 5, 2005. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

**1200-08-10-08 BUILDING STANDARDS.**

- (1) An ASTC shall construct, arrange, and maintain the condition of the physical plant and the overall ASTC environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to ASTCs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in ASTCs, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new ASTC shall be constructed, nor shall major alterations be made to an existing ASTC without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new ASTC is licensed or before any alteration or expansion of a licensed ASTC can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

(Rule 1200-08-10-.08, continued)

- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and

(Rule 1200-08-10-.08, continued)

- (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.

(Rule 1200-08-10-.08, continued)

- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the ASTC is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each ASTC a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-10-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-10-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

(Rule 1200-08-10-.08, continued)

- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms;
  - (b) Generators (if applicable); and
  - (c) Medical gas alarms (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (26) Each ASTC shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-216 and 68-11-261. **Administrative History:** Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed July 3, 1984; effective August 1, 1984. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 4, 2000; effective June 4, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Amendment filed June 16, 2003; effective August 30, 2003. Repeal and new rule filed September 9, 2005; effective November 23, 2005. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

**1200-08-10-.09 LIFE SAFETY.**

- (1) Any ambulatory surgical treatment center which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The ambulatory surgical treatment center shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of patient(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216. **Administrative History:** Original rule filed July 22, 1977; effective August 22, 1977. Amendment filed July 3, 1984; effective August 1, 1984. Repeal and new rule filed June 30, 1992; effective August 14, 1992. Repeal and new rule filed March 21, 2000; effective June 4, 2000. Amendment filed June 16,

(Rule 1200-08-11-.06, continued)

morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140°F. or above) or cold (41°F. or less). The food must be adapted to the habits, preferences, needs and physical abilities of the residents.

- (11) Sufficient food provision capabilities and dining space shall be provided.
- (12) A forty-eight (48) hour supply of food shall be maintained and properly stored at all times.
- (13) Appropriate equipment and utensils for cooking and serving food shall be provided in sufficient quantity to serve all residents and must be in good repair.
- (14) The kitchen shall be maintained in a clean and sanitary condition.
- (15) Equipment, utensils and dishes shall be washed after each use.
- (16) A suitable and comfortable furnished area shall be provided in the facility for activities and family visits. Furnishings shall include a current calendar and a functioning television set, radio and clock.
- (17) The facility shall provide current newspapers, magazines or other reading materials.
- (18) The home must have a telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, and 68-11-204. **Administrative History:** Original rule filed June 21, 1979; effective August 6, 1979. Amendment filed August 16, 1988; effective September 30, 1988. Repeal and new rule filed July 27, 2000; effective October 10, 2000.

#### 1200-08-11-.07 BUILDING STANDARDS.

- (1) An RHA shall construct, arrange, and maintain the condition of the physical plant and the overall RHA environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current

(Rule 1200-08-11-.07, continued)

edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.

- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to RHAs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in RHAs, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new RHA shall be constructed, nor shall major alterations be made to an existing RHA without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new RHA is licensed or before any alteration or expansion of a licensed RHA can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.

(Rule 1200-08-11-.07, continued)

- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
- (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and

(Rule 1200-08-11-.07, continued)

- (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the RHA is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.

(Rule 1200-08-11-.07, continued)

- (18) It shall be demonstrated through the submission of plans and specifications that in each RHA:
  - (a) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;
  - (b) A minimum of eighty (80) square feet of bedroom space must be provided each resident. No bedroom shall have more than two (2) beds. Privacy screens or curtains must be provided and used when required by the resident;
  - (c) Living room and dining areas capable of accommodating all residents shall be provided, with a minimum of fifteen (15) square feet per resident per dining area; and
  - (d) Each toilet, lavatory, bath or shower shall serve no more than six (6) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-11-.07(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-11-.07(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (26) Each RHA shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a

(Rule 1200-08-11-.07, continued)

universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.

**Administrative History:** Original rule filed June 21, 1979; effective August 6, 1979. Amendment filed August 16, 1988; effective September 30, 1988. Amendment filed January 30, 1992; effective March 15, 1992. Amendment filed December 7, 1993; effective February 20, 1994. Amendment filed January 6, 1995; effective March 22, 1995. Repeal and new rule filed July 27, 2000; effective October 10, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Amendment filed September 6, 2006; effective November 22, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

(Rule 1200-08-15-.06, continued)

or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

- (h) Dishwashing machines shall be used according to manufacturer specifications.
- (i) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.
- (j) The cleaning and sanitizing of handwashed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".
- (k) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.
- (l) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.
- (m) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current "U.S. Public Health Service Sanitation Manual" should be used as a guide to food sanitation.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed November 22, 2005; effective February 5, 2006.

**1200-08-15-.07 RESERVED.**

**1200-08-15-.08 BUILDING STANDARDS.**

- (1) A residential hospice shall construct, arrange, and maintain the condition of the physical plant and the overall residential hospice environment in such a manner that the safety and well-being of the patients are assured.
- (2) ~~After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the, the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~

(Rule 1200-08-15-.08, continued)

- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities (FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to residential hospices, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in residential hospices, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new residential hospice shall be constructed, nor shall major alterations be made to an existing resident hospice without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new residential hospice is licensed or before any alteration or expansion of a licensed residential hospice can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.

(Rule 1200-08-15-.08, continued)

- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
  - (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
  - (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;

(Rule 1200-08-15-.08, continued)

- (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the residential hospice is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.

(Rule 1200-08-15-.08, continued)

- (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each residential hospice a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-15-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-15-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
- (a) Fire alarms; and
- (b) Generators (if applicable).
- (25) Each residential hospice shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.  
**Administrative History:** Original rule filed August 18, 1995; effective November 1, 1995. Repeal and new rule filed April 27, 2000; effective July 11, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed November 22, 2005; effective February 5, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

**1200-08-15-.09 LIFE SAFETY.**

(Rule 1200-08-24-.06, continued)

poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.

- (b) Cats, dogs or other animals shall not be allowed in any part of the facility except for specially trained animals for the handicapped. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.  
**Administrative History:** Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed January 3, 2006; effective March 19, 2006.

#### 1200-08-24-.07 BUILDING STANDARDS.

- (1) A birthing center shall construct, arrange, and maintain the condition of the physical plant and the overall birthing center environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to birthing centers, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in

(Rule 1200-08-24-.07, continued)

birthing centers, including the submission of phased construction plans and the final drawings and the specifications to each.

- (5) No new birthing center shall be constructed, nor shall major alterations be made to an existing birthing center without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new birthing center is licensed or before any alteration or expansion of a licensed birthing center can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;

(Rule 1200-08-24-.07, continued)

- (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and

(Rule 1200-08-24-.07, continued)

- (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
  - (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
  - (16) Sprinkler drawings shall include where applicable:
    - (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
    - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
    - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
  - (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
    - (a) Before the birthing center is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
    - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
    - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
  - (18) It shall be demonstrated through the submission of plans and specifications that in each birthing center a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
  - (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
  - (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-24-.07(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

(Rule 1200-08-24-.07, continued)

- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-24-.07(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed January 3, 2006; effective March 19, 2006. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### **1200-08-24-.08 LIFE SAFETY.**

- (1) Any birthing center which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The birthing center shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of patient(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed March 31, 1998; effective June 12, 1998. Amendment filed January 3, 2006; effective March 19, 2006. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### **1200-08-24-.09 INFECTIOUS AND HAZARDOUS WASTE.**

- (1) Each birthing center must develop, maintain and implement written policies and procedures for the definition and handling of its infectious and hazardous waste, including a specific policy and procedure on containment and repackaging of spilled waste. These policies and

(Rule 1200-08-25-.08, continued)

2006. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009.

#### 1200-08-25-.09 BUILDING STANDARDS.

- (1) An ACLF shall construct, arrange, and maintain the condition of the physical plant and the overall ACLF living facility environment in such a manner that the safety and well-being of residents are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code, and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to assisted care living facilities, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in assisted care living facilities, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new ACLF shall be constructed, nor shall major alterations be made to an existing ACLF without prior approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new ACLF is licensed or before any alteration or expansion of a licensed ACLF can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with

(Rule 1200-08-25-.09, continued)

fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.

- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;

(Rule 1200-08-25-.09, continued)

- (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.

(Rule 1200-08-25-.09, continued)

- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include:
  - (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
  - (a) Before the ACLF is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) The licensed contractor shall ensure through the submission of plans and specifications that in each ACLF:
  - (a) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;
  - (b) A minimum of eighty (80) square feet of bedroom space must be provided each resident. No bedroom shall have more than two (2) beds. Privacy screens or curtains must be provided and used when requested by the resident;
  - (c) Living room and dining areas capable of accommodating all residents shall be provided, with a minimum of fifteen (15) square feet per resident per dining area; and
  - (d) Each toilet, lavatory, bath or shower shall serve no more than six (6) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.
- (19) With the submission of plans the facility shall specify the evacuation capabilities of the residents as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (20) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer and the owner as well as the

(Rule 1200-08-25-.09, continued)

manager or other executive of the institution. The department may modify the distribution of such review at its discretion.

- (21) In the event submitted materials do not appear to satisfactorily comply with 1200-08-25-.09 (2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (22) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (23) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-25-.09(20). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (24) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (25) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms; and
  - (b) Generators (if applicable).
- (26) Each ACLF shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.

**Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Public necessity rule filed May 13, 2009; effective through October 25, 2009. Emergency rule filed October 22, 2009; effective through April 20, 2010. Amendment filed September 24, 2009; effective December 23, 2009. Amendments filed December 20, 2011; effective March 19, 2012.

#### **1200-08-25-.10 LIFE SAFETY.**

- (1) The department will consider any ACLF that complies with the required applicable building and fire safety regulations at the time the Board adopts new codes or regulations, so long as such compliance is maintained (either with or without waivers of specific provisions), to be in compliance with the requirements of the new codes or regulations.
- (2) An ACLF shall ensure fire protection for residents by doing at least the following:
  - (a) Eliminate fire hazards;
  - (b) Install necessary fire fighting equipment;
  - (c) Adopt a written fire control plan;

(Rule 1200-08-28-.06, continued)

- (l) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.
- (m) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the "U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments" and the current U.S. Public Health Service Sanitation Manual should be used as a guide to food sanitation.

**Authority:** T.C.A. §§ 4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.**Administrative History:** Original rule filed July 27, 2000; effective October 10, 2000.**1200-08-28-.07 RESERVED.****1200-08-28-.08 BUILDING STANDARDS.**

- (1) An HIV supportive living facility shall construct, arrange, and maintain the condition of the physical plant and the overall HIV supportive living facility environment in such a manner that the safety and well-being of the residents are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; the 2005 edition of the National Electrical Code; and the 2005 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.

(Rule 1200-08-28-.08, continued)

- (4) The licensed contractor shall perform all new construction and renovations to HIV supportive living facilities, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in HIV supportive living facilities, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new HIV supportive living facility shall be constructed, nor shall major alterations be made to an existing HIV supportive living facility without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new HIV supportive living facility is licensed or before any alteration or expansion of a licensed HIV supportive living facility can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;

(Rule 1200-08-28-.08, continued)

- (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;

(Rule 1200-08-28-.08, continued)

- (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the HIV supportive living facility is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through submission of plans and specifications that in each HIV supportive living facility:
- (a) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms;
  - (b) A minimum of eighty (80) square feet of bedroom space must be provided each resident. No bedroom shall have more than two (2) beds. Privacy screens or curtains must be provided and used when required by the resident;

(Rule 1200-08-28-.08, continued)

- (c) Living room and dining areas capable of accommodating all residents shall be provided, with a minimum of fifteen (15) square feet per resident per dining area; and
  - (d) Each toilet, lavatory, bath or shower shall serve no more than six (6) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-28-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-28-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
- (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (26) Each HIV supportive living facility shall ensure that an emergency keyed lock box is installed next to each bank of functioning elevators located on the main level. Such lock boxes shall be permanently mounted seventy-two inches (72") from the floor to the center of the box, be operable by a universal key no matter where such box is located, and shall contain only fire service keys and drop keys to the appropriate elevators.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-261.

**Administrative History:** Original rule filed July 27, 2000; effective October 10, 2000. Amendment filed February 18, 2003; effective May 4, 2003. Repeal and new rule filed December 15, 2005; effective February 28, 2006. Amendment filed February 23, 2007; effective May 9, 2007. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### **1200-08-28-.09 LIFE SAFETY.**

- (1) Any HIV supportive living facility which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such

(Rule 1200-08-32-.06, continued)

- (c) Initial contact between the social worker and the patient shall occur and be documented within two weeks or seven treatments from the patient's admission, whichever occurs later. A comprehensive psychosocial assessment shall be completed within 30 days or 13 treatments from the patient's admission, whichever occurs later.
- (d) A psychosocial reassessment shall be conducted annually or more often if indicated.
- (e) Each facility shall employ or contract with a sufficient number of social worker(s) to meet the psychosocial needs of the patients.
- (f) Social services shall be available at the facility during the times of patient treatment. Access to social services may require an appointment.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed April 22, 2003; effective July 6, 2003. Amendment filed December 15, 2005; effective February 28, 2006. Amendment filed December 9, 2010 to have been effective March 9, 2011 was stayed for 28 days by the Government Operations Committee; new effective date March 29, 2011.

**1200-08-32-07 RESERVED.**

**1200-08-32-08 BUILDING STANDARDS.**

- (1) A renal dialysis clinic shall construct, arrange, and maintain the condition of the physical plant and the overall renal dialysis clinic environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~
- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities (FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.

(Rule 1200-08-32-.08, continued)

- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to renal dialysis clinics, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in renal dialysis clinics, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new renal dialysis clinic shall be constructed, nor shall major alterations be made to an existing renal dialysis clinic without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new renal dialysis clinic is licensed or before any alteration or expansion of a licensed renal dialysis clinic can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an  $8\frac{1}{2} \times 11$  inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;

(Rule 1200-08-32-.08, continued)

- (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;

(Rule 1200-08-32-.08, continued)

- (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the renal dialysis clinic is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
  - (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each renal dialysis clinic a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other

(Rule 1200-08-32-.08, continued)

executive of the institution. The department may modify the distribution of such review at its discretion.

- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-32-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-32-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
  - (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed April 22, 2003; effective July 6, 2003. Repeal and new rule filed December 15, 2005; effective February 28, 2006. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

#### 1200-08-32-.09 LIFE SAFETY.

- (1) Any renal dialysis clinic which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) The renal dialysis clinic shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of patient(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209.

**Administrative History:** Original rule filed April 22, 2003; effective July 6, 2003. Repeal and new rule filed December 15, 2005; effective February 28, 2006.

(Rule 1200-08-35-.06, continued)

- (c) Documentation of periodic review of the data collected and follow-up actions;
  - (d) A system which identifies appropriate plans of action to correct identified quality deficiencies;
  - (e) Documentation that the above policies are being followed and that appropriate action is taken whenever indicated.
- (9) Ancillary Services. All ancillary or supportive health or medical services, including but not limited to, dietary, environmental, nursing, or medical laboratory services shall be provided in accordance with all applicable state and federal laws and regulations.
- (10) Laboratory Services.
- (a) The Outpatient Diagnostic Center shall provide on the premises or by written agreement with a laboratory licensed under T.C.A. 68-29-105, a clinical laboratory to provide those services commensurate with the needs and services of the Outpatient Diagnostic Center.
  - (b) Any patient terminating pregnancy in an Outpatient Diagnostic Center shall have an Rh type, documented prior to the procedure, performed on her blood. In addition, she shall be given the opportunity to receive Rh immune globulin after an appropriate crossmatch procedure is performed within a licensed laboratory.
- (11) Food and Dietetic Services. If a patient will be in the facility for more than four (4) hours post-op, an appropriate diet shall be provided.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

**Administrative History:** Original rule filed October 26, 2005; effective January 9, 2006.

#### **1200-08-35-.07 RESERVED.**

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

**Administrative History:** Original rule filed October 26, 2005; effective January 9, 2006.

#### **1200-08-35-.08 BUILDING STANDARDS.**

- (1) An ODC shall construct, arrange, and maintain the condition of the physical plant and the overall ODC environment in such a manner that the safety and well-being of the patients are assured.
- ~~(2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All new facilities shall conform to the 2006 edition of the International Building Code, except for Chapter 11 pertaining to accessibility and except for Chapter 27 pertaining to electrical requirements; the 2006 edition of the International Mechanical Code; the 2006 edition of the International Plumbing Code; the 2006 edition of the International Fuel and Gas Code; the 2006 edition of the National Fire Protection Code (NFPA) NFPA 1 including Annex A which incorporates the 2006 edition of the Life Safety Code; the 2010 Guidelines for Design and Construction of Health Care Facilities; and the 2005 edition of the National Electrical Code. The requirements of the 2004 Americans with Disabilities Act (A.D.A.), and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new facilities and to all existing facilities that are enlarged or substantially altered or repaired after July 1, 2006. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed~~

(Rule 1200-08-35-.08, continued)

~~codes and regulations and provisions of this chapter, the most stringent requirements shall apply.~~

- (2) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (3) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (4) The licensed contractor shall perform all new construction and renovations to ODCs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in ODCs, including the submission of phased construction plans and the final drawings and the specifications to each.
- (5) No new ODC shall be constructed, nor shall major alterations be made to an existing ODC without prior written approval of the department, and unless in accordance with plans and specifications approved in advance by the department. Before any new ODC is licensed or before any alteration or expansion of a licensed ODC can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (6) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.
- (7) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The department must grant final approval before the project proceeds beyond foundation work.

(Rule 1200-08-35-.08, continued)

- (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (8) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (9) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (10) Architectural drawings shall include where applicable:
- (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and
  - (j) Code analysis.
- (11) Structural drawings shall include where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (12) Mechanical drawings shall include where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;

(Rule 1200-08-35-.08, continued)

- (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (13) Electrical drawings shall include where applicable:
- (a) A seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) An electrical system that complies with applicable codes;
  - (d) Color coding to show all items on emergency power;
  - (e) Circuit breakers that are properly labeled; and
  - (f) Ground-Fault Circuit Interrupters (GFCI) that are required in all wet areas, such as kitchens, laundries, janitor closets, bath and toilet rooms, etc, and within six (6) feet of any lavatory.
- (14) The electrical drawings shall not include knob and tube wiring, shall not include electrical cords that have splices, and shall not show that the electrical system is overloaded.
- (15) In all new facilities or renovations to existing electrical systems, the installation must be approved by an inspector or agency authorized by the State Fire Marshal.
- (16) Sprinkler drawings shall include where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and
  - (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (17) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension to the department demonstrating that all applicable codes have been met and the department has granted necessary approval.
- (a) Before the ODC is used, Tennessee Department of Environment and Conservation shall approve the water supply system.
  - (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall

(Rule 1200-08-35-.08, continued)

comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.

- (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105°F and 115°F.
- (18) It shall be demonstrated through the submission of plans and specifications that in each ODC a negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (19) The department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with 1200-08-35-.08(2), the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of department approval, the department's written notification of satisfactory review constitutes compliance with 1200-08-35-.08(2). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, a CD Rom disc, in TIF or PDF format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., shall be submitted to the department.
- (24) The department requires the following alarms that shall be monitored twenty-four (24) hours per day:
- (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) With the submission of plans the facility shall specify the evacuation capabilities of the patients as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209 and 68-11-216.  
**Administrative History:** Original rule filed October 26, 2005; effective January 9, 2006. Repeal and new rule filed December 20, 2011; effective March 19, 2012.

**1200-08-35-.09 LIFE SAFETY.**

- (1) Any outpatient diagnostic center which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such

(Rule 1200-08-36-.10, continued)

- (a) Common use areas must be accessible to all residents and may include the dining room and the living room.
  - (b) Each common use area shall have at a minimum one hundred fifty (150) square feet of common living space and sufficient furniture to accommodate recreational and social needs.
  - (c) Common use areas must not be located in an unfinished basement or a garage.
- (4) Bathrooms.
- (a) Bathrooms must provide individual privacy with a door which opens to a hall or common use room; a mirror; a window that opens or other means of ventilation; and a window covering for privacy. No person shall have to walk through another person's sleeping room to get to a bathroom.
  - (b) Bathrooms must be clean and free of objectionable odors.
  - (c) Bathrooms must have bathtubs, showers, toilets and sinks in good repair.
  - (d) There must be at least one toilet, one sink and one bathtub or shower for every three (3) household occupants.
  - (e) Non-slip floor surfaces must be provided in bathtubs and showers.
  - (f) Bathrooms must have grab bars for each toilet, bathtub and shower.
  - (g) Each bathroom shall have an adequate supply of toilet paper and soap.
  - (h) Each bathroom shall have appropriate racks or hooks for drying bath linens.
  - (i) Each bathroom shall have hand towels or roller-dispensed hand towels or paper towels.
  - (j) The adult care home provider shall supply residents with clean, individual towels and washcloths.
- (5) Each ACH shall provide the following:
- (a) Current newspapers, magazines or other reading materials;
  - (b) A telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day; and
  - (c) A suitable and comfortable furnished area for activities and family visits. Furnishings shall include a calendar and a functioning television set, radio and clock.

**Authority:** T.C.A. §§ 68-11-202 and 68-11-209. **Administrative History:** Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.

#### **1200-08-36-.11 BUILDING STANDARDS.**

- (1) An ACH shall construct, arrange, and maintain the condition of the physical plant and the overall ACH living facility environment in such a manner that the safety and well-being of residents are assured.

(Rule 1200-08-36-.11, continued)

- (2) *An ACH shall be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials must not exceed Class III (76-200) and smoke density must not be greater than four hundred and fifty (450). If more than ten percent (10%) of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material, such material must be treated with an approved flame retardant coating unless the facility is supplied with an approved automatic sprinkler system.*
- ~~(3) *After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the Department. All new facilities shall conform to the 2006 edition of the International Building Code, the 2006 edition of the National Fire Protection Code (NFPA), the 2005 edition of National Electrical Code, and the 1999 edition of the U.S Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. The requirements of the Americans with Disabilities Act (A.D.A.), as revised in 2004, and the 1999 edition of North Carolina Handicap Accessibility Codes with 2004 amendments apply to all new and existing facilities. Where there are conflicts between requirements in local codes, the above listed codes and regulations and provisions of this chapter, the most stringent requirements shall apply.*~~
- (3) After the applicant has submitted an application and licensure fees, the applicant must submit the building construction plans to the department. All facilities shall conform to the current edition of the following applicable codes as approved by the Board for Licensing Health Care Facilities: International Building Code (excluding Chapters 1 and 11) including referenced International Fuel Gas Code, International Mechanical Code, and International Plumbing Code; National Fire Protection Association (NFPA) NFPA 101 Life Safety Code excluding referenced NFPA 5000; Guidelines for Design and Construction of Health Care Facilities(FGI) including referenced Codes and Standards; U.S. Public Health Service Food Code; and Americans with Disabilities Act (ADA) Standards for Accessible Design. When referring to height, area or construction type, the International Building Code shall prevail. Where there are conflicts between requirements in local codes, the above listed codes, regulations and provisions of this chapter, the most stringent requirements shall apply.
- (4) The codes in effect at the time of submittal of plans and specifications, as defined by these rules, shall be the codes to be used throughout the project.
- (5) The licensed contractor shall perform all new construction and renovations to ACHs, other than minor alterations not affecting fire and life safety or functional issues, in accordance with the specific requirements of these regulations governing new construction in ACHs, including the submission of phased construction plans and the final drawings and the specifications to each.
- (6) No new ACH shall be constructed, nor shall major alterations be made to an existing ACH without prior approval of the Department, and unless in accordance with plans and specifications approved in advance by the Department. Before any new ACH is licensed or before any alteration or expansion of a licensed ACH can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the Department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues, shall be prepared by or under the direction of a licensed architect and/or a licensed engineer and in accordance with the rules of the Board of Architectural and Engineering Examiners.
- (7) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes.

(Rule 1200-08-36-.11, continued)

- (8) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ( $1/8" = 1'$ ), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the Department may require. An architect or engineer licensed to practice in the State of Tennessee shall prepare the plans the Department requires.
  - (a) The project architect or engineer shall forward two (2) sets of plans to the appropriate section of the Department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the owner's understanding that such work is at the owner's own risk and without assurance that final approval of final plans and specifications shall be granted. The project architect or engineer shall submit final plans and specifications for review and approval. The Department must grant final approval before the project proceeds beyond foundation work.
  - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (9) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (10) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Sprinkler.
- (11) Architectural drawings shall include, where applicable:
  - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
  - (b) Floor plan(s) showing scale drawings of typical and special rooms indicating all fixed and movable equipment and major items of furniture. Floor plan(s) shall indicate the size of each room and shall differentiate resident sleeping rooms from caregiver sleeping rooms
  - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
  - (d) The elevation of each facade;
  - (e) The typical sections throughout the building;
  - (f) The schedule of finishes;
  - (g) The schedule of doors and windows including the location of all exits on each level of the ACH;
  - (h) Roof plans;
  - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators;
  - (j) Code analysis;
  - (k) The location of wheelchair ramps, if applicable; and

(Rule 1200-08-36-.11, continued)

- (l) The location of fire extinguishers and smoke alarms.
- (12) Structural drawings shall include, where applicable:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members;
  - (b) Schedules of beams, girders and columns; and
  - (c) Design live load values for wind, roof, floor, stairs, guard, handrails, and seismic.
- (13) Mechanical drawings shall include, where applicable:
- (a) Specifications which show the complete heating, ventilating, fire protection, medical gas systems and air conditioning systems;
  - (b) Water supply, sewerage and HVAC piping systems;
  - (c) Pressure relationships shall be shown on all floor plans;
  - (d) Heating, ventilating, HVAC piping, medical gas systems and air conditioning systems with all related piping and auxiliaries to provide a satisfactory installation;
  - (e) Water supply, sewage and drainage with all lines, risers, catch basins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
  - (f) Color coding to show clearly supply, return and exhaust systems.
- (14) Electrical drawings shall include, where applicable:
- (a) A Seal, certifying that all electrical work and equipment is in compliance with all applicable codes and that all materials are currently listed by recognized testing laboratories;
  - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building;
  - (c) The electrical system shall comply with applicable codes, and shall include:
    - 1. The fire alarm system; and
    - 2. The emergency power system including automatic services as defined by the codes.
  - (d) Color coding to show all items on emergency power.
- (15) Sprinkler drawings shall include, where applicable:
- (a) Shop drawings, hydraulic calculations, and manufacturer cut sheets;
  - (b) Site plan showing elevation of fire hydrant to building, test hydrant, and flow data (Data from within a 12 month period); and

(Rule 1200-08-36-.11, continued)

- (c) Show "Point of Service" where water is used exclusively for fire protection purposes.
- (16) The licensed contractor shall not install a system of water supply, plumbing, sewage, garbage or refuse disposal nor materially alter or extend any existing system until the architect or engineer submits complete plans and specifications for the installation, alteration or extension, to the Department demonstrating that all applicable codes have been met and the Department has granted necessary approval.
- (a) Before the ACH is used, the Tennessee Department of Environment and Conservation shall approve the water supply system.
- (b) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
- (c) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and hand washing facilities shall be between 105° F and 115° F.
- (17) The licensed contractor shall ensure through the submission of plans and specifications that in each ACH a negative air pressure shall be maintained in the soiled utility areas, toilet rooms, janitor's closets, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (18) With the submission of plans the facility shall specify the evacuation capabilities of the residents as defined in the National Fire Protection Code (NFPA). This declaration will determine the design and construction requirements of the facility.
- (19) The Department shall acknowledge that it has reviewed plans and specifications in writing with copies sent to the project architect, the project engineer, the owner, the manager or other executive of the institution. The Department may modify the distribution of such review at its discretion.
- (20) In the event submitted materials do not appear to satisfactorily comply with Rule 1200-08-36-.11(3), the Department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (21) The licensed contractor shall execute all construction in accordance with the approved plans and specifications.
- (22) If construction begins within one hundred eighty (180) days of the date of Department approval, the Department's written notification of satisfactory review constitutes compliance with Rule 1200-08-36-.11(21). This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (23) Prior to final inspection, the licensed contractor shall submit a CD Rom disc, in TIF or DMG format, of the final approved plans including all shop drawings, sprinkler, calculations, hood and duct, addenda, specifications, etc., to the Department.
- (24) The Department requires the following alarms that shall be monitored twenty-four (24) hours per day:

(Rule 1200-08-36-.11, continued)

- (a) Fire alarms; and
  - (b) Generators (if applicable).
- (25) **Manufactured Homes.** If a manufactured home unit is to be used as the adult care home residence, such unit must:
- (a) Be constructed after 1976;
  - (b) Be designed for use as a home rather than a travel trailer;
  - (c) Have a manufacturer's label permanently affixed on the unit evidencing that the unit meets the requirements of the Department of Housing and Urban Development (HUD). The required label shall read as follows: "As evidenced by this label No. ABC00001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate." If such label is not evident and the licensee believes he/she meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the manufacturer.

**Authority:** T.C.A. §§ 68-11-202 and 68-11-209. **Administrative History:** Emergency rule filed November 2, 2010; effective through May 1, 2011. New rule filed January 28, 2011; effective April 28, 2011.

**1200-08-36-.12 LIFE SAFETY.**

- (1) The Department will consider any ACH that complies with the required applicable building and fire safety regulations at the time the Board adopts new codes or regulations, so long as such compliance is maintained (either with or without waivers of specific provisions), to be in compliance with the requirements of the new codes or regulations.
- (2) A Level 2 ACH providing care to ventilator dependent patients shall be fully sprinklered.
- (3) An ACH shall ensure fire protection for residents by doing at least the following:
  - (a) Eliminate fire hazards;
  - (b) Install necessary fire fighting equipment;
  - (c) Adopt a written fire control plan;
  - (d) Ensure that each resident sleeping unit shall have a door that opens directly to the outside or a corridor which leads directly to an exit door and must always be capable of being unlocked by the resident;
  - (e) Ensure that louvers shall not be present in doors to residents' sleeping units;
  - (f) Keep corridors and exit doors clear of equipment, furniture and other obstacles at all times. Passage to exit doors leading to a safe area shall be clear at all times;
  - (g) Prohibit use of combustible finishes and furnishings;
  - (h) Prohibit open flame and portable space heaters;

\* 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)
Carissa S. Lynch, Pharm.D.	X				
Michael R. Miller				X	
Diana L. Miller	X				
Robert Gordon				X	
John A. Marshall	X				
Jennifer Gordon-Maloney, DDS	X				
Kenneth R. Robertson, M.D.	X				
Sherry Robbins, M.D.	X				
Annette Marlar				X	
Robert C. Breeden	X				
Roger L. Mynatt	X				
Janet Williford	X				
David Rhodes	X				
Joshua A. Crisp	X				
Betty S. Hodge	X				
Bobby Wood	X				
Jim Shulman	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Licensing Health Care Facilities (board/commission/ other authority) on 01/21/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/29/14 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 01/21/15 (mm/dd/yy)

Date: 2/13/15

Signature: *Kyonzte Hughes-Toombs*

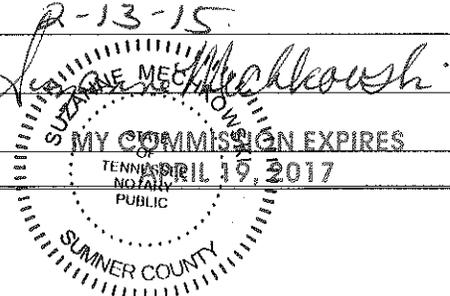
Name of Officer: Kyonzte Hughes-Toombs  
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 2-13-15

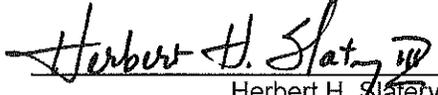
Notary Public Signature: *Suzanne McKeough*

My commission expires on: \_\_\_\_\_



Board for Licensing Health Care Facilities Rules  
Rule Chapters: 1200-08-01, -02, -06, -10, -11,  
-15, -24, -25, -28, -32, -35, and -36  
Building Standards Amendments

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.

  
Herbert H. Slatery III  
Attorney General and Reporter  
10/30/2015  
Date

**Department of State Use Only**

Filed with the Department of State on: 1/21/16

Effective on: 4/20/16

  
Tre Hargett  
Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Emergency Communications Board

DIVISION:

SUBJECT: Base Funding Increase

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 7-86-303(e)(2) and 7-86-306

EFFECTIVE DATES: April 10, 2016, through June 30, 2017

FISCAL IMPACT: These rules may increase the revenue of fifty-five (55) emergency communications districts identified as being eligible to apply for an increase in their annual base funding. The Tennessee Emergency Communications Board has allocated approximately 1.7 million dollars (\$1,700,000) from the Emergency Communications Fund for distribution to eligible districts that apply for an increase in base funding.

STAFF RULE ABSTRACT: These rules allow certain eligible emergency communications districts to apply to the Tennessee Emergency Communications Board for an increase in the base funding distributed by the board under Tennessee Code Annotated, Section 7-86-303(e). The rules also establish minimum criteria that emergency communications districts must satisfy in order to obtain an increase in base funding, as required by Tennessee Code Annotated, Section 7-86-303(e)(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 at the rulemaking hearing on these rules.

### **Regulatory Flexibility Addendum**

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

#### **Economic Impact Statement:**

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

Small businesses will be minimally affected by the proposed rules.

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

There is minimal additional projected reporting, recordkeeping, or other administrative costs associated with these proposed rules.

3. Probable effect on impacted small businesses and consumers:

There will be minimal effect on impacted small businesses and consumers as a result of these proposed rules.

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

There is no known less burdensome, intrusive or costly alternative method.

5. Comparison with federal and state counterparts:

The rules appear to comport with other similar state rules. There is no basis for comparison to current federal rules or statutes.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these 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 rules may have a projected impact on local governments by increasing the funding available to certain emergency communications districts.

4

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Sequence Number: 1-10-16  
Rule ID(s): 6102  
File Date: 1/11/16  
Effective Date: 4/10/16

# 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).*

<b>Agency/Board/Commission:</b>	Tennessee Emergency Communications Board
<b>Division:</b>	
<b>Contact Person:</b>	Lee Pope, General Counsel
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN
<b>Zip:</b>	37243-0582
<b>Phone:</b>	(615) 253-2164
<b>Email:</b>	James.L.Pope@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
0780-06-04	Base Funding Increase
Rule Number	Rule Title
0780-06-04-.01	Purpose
0780-06-04-.02	Definitions
0780-06-04-.03	Application and Minimum Criteria
0780-06-04-.04	Review and Approval

Chapter Number	Chapter Title
Rule Number	Rule Title

**DEPARTMENT OF COMMERCE AND INSURANCE  
EMERGENCY COMMUNICATIONS BOARD**

**CHAPTER 0780-06-04  
BASE FUNDING INCREASE**

**TABLE OF CONTENTS**

0780-06-04-.01 Purpose  
0780-06-04-.02 Definitions  
0780-06-04-.03 Application and Minimum Criteria  
0780-06-04-.04 Review and Approval

**0780-06-04-.01 PURPOSE**

The purpose of this chapter is to set forth an application process and minimum requirements for emergency communications districts to apply for an increase in base funding in accordance with T.C.A. § 7-86-303(e)(2).

Authority: T.C.A. §§7-86-303 and 7-86-306.

**0780-06-04-.02 DEFINITIONS**

- (1) Unless otherwise stated, as used in this chapter and each subsequent chapter of the Rules of the Emergency Communications Board:
- (a) "Board" means the Tennessee Emergency Communications Board established by T.C.A. § 7-86-302;
  - (b) "ECD" or "district" means an emergency communications district created pursuant to T.C.A. § 7-86-104;
  - (c) "Eligible district" means an emergency communications district with a locally established emergency telephone service charge in effect as of July 1, 2011, less than the maximum allowable emergency telephone service charge then in effect.
  - (d) "Base amount" means the amount distributed to emergency communications districts by the Tennessee Emergency Communications Board in accordance with T.C.A. § 7-86-303(e).

Authority: T.C.A. §§7-86-303 and 7-86-306.

**0780-06-04-.03 APPLICATION AND MINIMUM CRITERIA**

- (1) The board shall provide an application for eligible districts to request an increase in the base amount.
- (2) To receive an increase in the base amount, eligible districts must submit an application to the board no later than sixty days after the effective date of this rule.
- (3) Districts applying for an increase in the base amount must satisfy the following minimum criteria:
  - (a) A district must be eligible for an increase in the base amount as provided in T.C.A. § 7-86-303(e)(2).
  - (b) A district must provide the board with the district's residential and business line counts for fiscal year 2012. If a district's line counts for fiscal year 2012 are unavailable, the district shall provide the board with a reasonable estimate of the district's residential and business line counts and shall provide the board with the basis used to determine the estimated line counts.

**0780-06-04-.04 APPLICATION REVIEW AND APPROVAL**

- (1) The board shall review applications at a regularly scheduled meeting and shall determine the following:
  - (a) Whether the district has satisfied the minimum criteria required to receive an increase in the base amount;
  - (b) Whether to approve or deny the application; and
  - (c) The amount of increase to the district's base amount.
- (2) The board shall not approve an application if the board determines it lacks sufficient funds.
- (3) The board shall not approve an application if the board determines the minimum criteria established by these rules have not been satisfied.
- (4) The board shall not increase the base amount of an eligible district in excess of the amount the district would have received under T.C.A. § 7-86-303(e) if the district had the maximum allowable emergency telephone service charge in effect as of July 1, 2011.
- (5) The board shall publish to its web site any increase in the base amount.

Authority: T.C.A. §§ 7-86-303 and 7-86-306.

\* 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)
Mike Hooks	X				
Woody Boyd	X				
Greg Cothron	X				
Jennifer Estes	X				
Jill Holland	X				
Marvin Kelley	X				
Randy Porter	X				
James Sneed				X	
James Turnbow	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Emergency Communications Board on 11/04/15, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/26/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 11/04/2015

Date: 12/4/15

Signature: [Handwritten Signature]

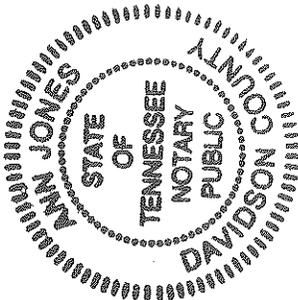
Name of Officer: Lee Pope

Title of Officer: General Counsel

Subscribed and sworn to before me on: 12-4-15

Notary Public Signature: [Handwritten Signature]

My commission expires on: 6-21-14



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

[Handwritten Signature]  
 Herbert H. Slatery III  
 Attorney General and Reporter  
12/18/2015  
 Date

Department of State Use Only

Filed with the Department of State on: 1/11/16

Effective on: 4/10/16

*Tre Hargett*

Tre Hargett  
Secretary of State

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## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: Use of University Property

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

EFFECTIVE DATES: April 4, 2016 through June 30, 2017

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: On August 19, 2015, the Joint Government Operations Committee of the General Assembly voted to request the University of Tennessee Board of Trustees to amend Chapter 1720-01-02-.05 (No-Trespass Notices). A no-trespass notice is a written directive requiring a person to leave and/or not enter all or part of University property.

In response to the Committee's request, the University of Tennessee Board of Trustees adopted the following amendments to Section .05:

Section .05 will apply only to non-affiliated persons (i.e., it will not apply to students and employees).  
Only a sworn law enforcement officer may issue a no-trespass notice.  
A person who receives a no-trespass notice may appeal to the campus/institute chief of police.

### **Regulatory Flexibility Addendum**

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

(If applicable, insert Regulatory Flexibility Addendum here)

The Regulatory Flexibility Addendum is not applicable.

### **Impact on Local Governments**

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

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



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Sequence Number: 01-01-16  
Rule ID(s): 6099  
File Date: 1/5/16  
Effective Date: 4/4/16

## 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.*

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

**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
1720-01-02	Use of University Property
Rule Number	Rule Title
1720-01-02-.05	No-Trespass Notices

**RULES  
OF  
THE UNIVERSITY OF TENNESSEE**

**CHAPTER 1720-01-02  
USE OF UNIVERSITY PROPERTY**

**1720-01-02-.01 DEDICATION OF UNIVERSITY PROPERTY.** The University of Tennessee ("University") dedicates its property exclusively to the advancement of the University's principal missions of teaching, research, and service. The University regulates its property to preserve it for the advancement of the University's principal missions.

**1720-01-02-.02 DEFINITIONS**

- (1) The term "University property" means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University of Tennessee.
- (2) The term "University unit" means any academic, administrative, or auxiliary department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

**1720-01-02-.03 AUTHORIZED USERS AND PERMISSIBLE USES.**

- (1) The use of University property is limited to the following persons, subject to Section .03(2) and Section .05:
  - (a) University students;
  - (b) University employees;
  - (c) Members of the Board of Trustees;
  - (d) Government officials acting in their official capacities;
  - (e) A person or entity invited by a University unit, including but not limited to, a person or entity who has a contract to provide services to the University, provided that the use of University property shall not exceed the scope of the University unit's invitation;
  - (f) A person who has been invited by a University student, student organization, or employee in his/her personal capacity, to join the student, student organization, or employee in the use of University property (e.g., friends and family), but not including the use of University property for free expression activities, provided that the use of University property shall not exceed the scope of the invitation;
  - (g) A non-affiliated person using University property for free expression activities pursuant to Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities);
  - (h) Volunteers of the University, as defined by University policy, within the scope of their volunteer work;

- (i) Prospective students visiting University property and persons accompanying prospective students for purposes reasonably necessary to evaluate the University as an educational institution;
  - (j) Alumni visiting University property and persons accompanying alumni;
  - (k) A person who has a right of access to University property under Tennessee Code Annotated § 8-50-1001 or any other statutory provisions permitting access to University property;
  - (l) Any person or entity engaged in one of the following uses of University property:
    1. The use of University property for the purpose of attending a University activity or event that is open to attendance by the members of the general public at a designated place and time (e.g., athletic contests, plays, lectures, concerts);
    2. The use of University-owned streets, or University-owned sidewalks bordering University-owned streets, as thoroughfares while traveling from one location to another location;
    3. The use of University property that is open to the general public (e.g., campus bookstore, library, museum);
    4. The use of University property consistent with the terms of a lease agreement with the University; or
    5. The use of University property for a purpose relating to obtaining medical treatment from the University.
- (2) The use of University property shall be consistent with the University's principal missions of teaching, research, and service. A person using University property shall not:
- (a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic;
  - (b) block or substantially impede entrances or exits to University property;
  - (c) substantially disrupt or interfere with University operations, events, or activities;
  - (d) substantially disrupt or interfere with the ability of a student to sleep or study in a University residence hall between the hours of 10:00 p.m. and 6:00 a.m. during an academic term;
  - (e) substantially disrupt or interfere with the ability of a student to study in a University library;
  - (f) violate a federal, state, or local law, rule, regulation, or ordinance;
  - (g) violate University rules, policies, or procedures;
  - (h) engage in speech that is obscene; is defamatory; consists of fighting words; communicates an objectively serious expression of intent to commit an act of unlawful violence to a particular individual or group; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

- (i) engage in camping in violation of Tennessee law, the Equal Access to Public Property Act of 2012, unless the area on which camping occurs has been specifically designated by the University as available for camping;
  - (j) unreasonably threaten the health or safety of another person; or
  - (k) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.
- (3) Nothing in Section .03(2) shall be construed to prohibit a use of University property that has been expressly authorized by the University (e.g., a construction project that temporarily interferes with the use of a street);

**1720-01-02-.04 USE OF UNIVERSITY PROPERTY FOR FREE EXPRESSION ACTIVITIES.** Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities) governs the use of University property for free expression activities by persons who are not affiliated with the University. To the extent of any conflict between this Chapter and Chapter 1720-01-12, Chapter 1720-01-12 shall control.

**1720-01-02-.05 NO-TRESPASS NOTICES.**

(1) A No-Trespass Notice ("Notice") is a written directive requiring a ~~person~~-non-affiliated person to leave and/or not enter all or part of University property.

~~(2) The following persons are authorized to issue a Notice:~~

- ~~(a) The President of the University;~~
- ~~(b) The chief executive officer of a University campus or institute (e.g., Chancellor);~~
- ~~(c) The chief academic officer of a University campus or institute;~~
- ~~(d) The chief business officer of a University campus or institute;~~
- ~~(e) The chief human resources officer of a University campus or institute;~~
- ~~(f) The chief student affairs officer of a University campus or institute; and~~
- ~~(g) Sworn law enforcement officers employed by the University.~~

~~(3)~~(2) A sworn law enforcement officer employed by the University ~~University official~~ authorized under ~~Section .05(2)~~ may issue a Notice to a non-affiliated person:

- (a) ~~a person who~~ is not authorized to use University property under Section .03(1), and who has refused to leave University property, or a specified part of University property, within a reasonable time after the person has received an oral request to leave by a University official;
- (b) ~~a person who~~ has engaged in a use of University property that is prohibited by Section .03(2), and who has refused to cease the prohibited conduct within a reasonable time after receiving an oral request to do so from a University official;
- (c) ~~a person who,~~ in the good faith judgment of the ~~University official~~ law enforcement

officer issuing the Notice, poses an unreasonable threat to the health, safety, or welfare of a person(s) affiliated with the University while on University property;  
or

- (d) ~~a person who, in the good faith judgment of the University official law enforcement officer~~ issuing the Notice, has engaged in conduct that substantially disrupts or interferes with University operations, events, or activities, or is likely to cause such a disruption or interference;
- (e) ~~a University student who has been suspended or expelled from the University in accordance with the University's student conduct rules, policies, or procedures, and the suspension or expulsion has not been lifted;~~
- (f) ~~a University employee who, in accordance with the University's employment policies and procedures, has been temporarily suspended, has been placed on administrative leave, or whose employment is being terminated; or~~
- (g) ~~a person who is a former employee or volunteer whose employment or volunteer status was terminated by the University for misconduct in accordance with University rules, policies, or procedures, or who resigned in lieu of termination.~~

~~(4)~~(3) A Notice must specify: the reason for the Notice; the geographical scope of the restriction; the duration of the restriction, which may be for an indefinite period; the potential consequences of a violation of the Notice; and the process for appealing the issuance of the Notice. The scope and duration of the restriction imposed must be proportional to the underlying misconduct. In appropriate circumstances, with respect to conduct on University property, a Notice also may prohibit a non-affiliated person from contacting or being within a certain distance from a person affiliated with the University.

#### ~~(5)~~(4) Appeals

- (a) A non-affiliated person to whom a Notice has been issued may appeal the decision to the chief of police for the University's campus/institute ~~University official who issued the Notice.~~
- (b) A non-affiliated person must submit the appeal in writing. The written appeal must be received by the University official who issued the Notice ~~chief of police~~ within twenty (20) calendar days of the date on which the Notice was provided to the non-affiliated person. A Notice mailed (or e-mailed) to a non-affiliated person shall be deemed to have been provided on the date on which it was mailed (or e-mailed). The written appeal should include the non-affiliated person's reason for being on University property, the non-affiliated person's future need to be on University property, and any other information the non-affiliated person wishes the University official who issued the Notice to consider.
- (c) Upon receipt of a written appeal, the University official who issued the Notice ~~chief of police~~ will consult as needed with other University officials to verify the non-affiliated person's need for access to University property, to gather additional information or advice, or to review the impact that granting the appeal may have on persons affiliated with the University.
- (d) Within twenty (20) calendar days of the receipt of an appeal submitted in accordance with this Chapter, the University official who issued the Notice ~~chief of~~

police will sustain, rescind or modify the Notice in a written decision that will be mailed to the address provided by the non-affiliated person. The decision of the ~~University official who issued the Notice~~ chief of police is final and not appealable within the University.

~~(e)~~ The restrictions set forth in the Notice will remain in effect while an appeal of the Notice is pending.

~~(f)~~ If the chief of police issued the Notice, then the non-affiliated person may appeal to the supervisor of the chief of police following the procedures set forth in Section .05(4)(a)-(d).

~~(e)~~ Other University rules, policies and procedures, rather than this Section .05(5), shall govern appeals filed by University students or employees.

~~(6)~~(5) The ~~University employee who issued a Notice~~ law enforcement officer who issued the Notice (or, if the Notice is appealed, the chief of police) may rescind or modify the Notice at any time. Notification of any such rescission or modification shall be provided to the non-affiliated person to whom the Notice was issued.

~~(7)~~(6) The issuance of a Notice for conduct relating to free expression activities shall be consistent with Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities).

~~(8)~~(7) Failure to comply with a Notice may result in issuance of a citation or an arrest for trespassing pursuant to applicable state criminal trespass statutes or local ordinances. Nothing in this Section .05 shall limit or be construed to limit the exercise of the statutory authority of sworn law enforcement officers of a campus police department to arrest in accordance with the laws of this state or local ordinances. Nor shall anything in this Section .05 limit or be construed to limit the authority of sworn law enforcement officers of a campus police department to issue an oral request instructing a person to leave and/or not enter all or part of University property.

~~(9)~~ Nothing in this Section .05 shall limit or be construed to limit the ability of a University official to issue a lawful directive to an employee whom he/she supervises not to enter certain parts of University property.

~~(10)~~(8) For purposes of this Section .05, the term "non-affiliated person" means any person who is not a University student, student organization, employee, or volunteer.

#### **1720-01-02-.06 USE OF UNMANNED AIRCRAFT.**

(1) The purpose of the restrictions in this Section .06 is to ensure the safe and orderly use of unmanned aircraft on, at, inside, or above University property.

(2) For purposes of this Section .06, the term "unmanned aircraft" means a device that is used or is intended to be used for flight in the air without an individual in or on the device (e.g., drone, model aircraft).

(3) Unmanned aircraft shall not be used:

(a) By a person who is not authorized to use University property under Chapter 1720-01-03.01;

- (b) At a time, in a place, or in a manner prohibited under Chapter 1720-01-03-.02;
  - (c) Inside University buildings or facilities;
  - (d) On or above University-owned streets or University-owned sidewalks;
  - (e) Above a human being who is either not directly participating in the operation of the unmanned aircraft or not located under a covered structure that can provide reasonable protection from a falling unmanned aircraft;
  - (f) On or above a University campus within four hours prior to the scheduled kickoff time of an intercollegiate football game on that campus, during the game, or within two hours after the conclusion of the game;
  - (g) Outside the hours of official sunrise and sunset; or
  - (h) In a manner that violates federal or state law, including, without limitation, regulations issued by the Federal Aviation Administration.
- (4) This Section .06 does not apply to unmanned aircraft used by a University unit, including faculty conducting research using unmanned aircraft, or a person or entity with whom the University has contracted to operate an unmanned aircraft; provided, however, that unmanned aircraft shall be used in accordance with federal and state law, including, without limitation, regulations issued by the Federal Aviation Administration.

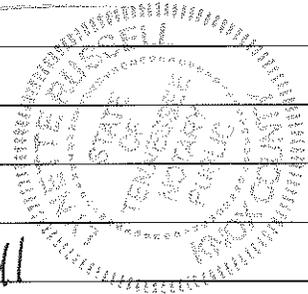
University of Tennessee Rules  
 Chapter 1720-01-02 Use of University Property

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				X	
Commissioner Julius Johnson	X				
Commissioner Candice McQueen	X				
Dr. Joe DiPietro	X				
Charles C. Anderson, Jr.	X				
Jalen K. Blue	X				
Shannon Brown				X	
George E. Cates	X				
Spruell Driver, Jr.	X				
Dr. William E. Evans	X				
J. Brian Ferguson	X				
John N. Foy	X				
D. Crawford Gallimore	X				
Dr. David Golden	X				
Vicky B. Gregg	X				
Raja J. Jubran	X				
Brad A. Lampley	X				
James L. Murphy, III	X				
Sharon J. Pryse	X				
Rhedona Rose	X				
John D. Tickle	X				
Julia T. Wells	X				
Charles E. Wharton	X				
Tommy G. Whittaker	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 10/09/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 12/11/2015  
Signature:   
Name of Officer: Matthew Scoggins  
Title of Officer: Deputy General Counsel  
Subscribed and sworn to before me on: 12-11-15  
Notary Public Signature: Lynette Russell  
My commission expires on: 12-4-18



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.

  
Herbert H. Slatery III  
Attorney General and Reporter  
12/23/2015 Date

**Department of State Use Only**

Filed with the Department of State on: 1/5/16  
Effective on: 4/4/16  
  
Tre Hargett  
Secretary of State

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SECRETARY OF STATE  
PUBLICATIONS



## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: The Honor System for University of Tennessee Health Science Center

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

EFFECTIVE DATES: April 5, 2016 through June 30, 2017

FISCAL IMPACT: None

STAFF RULE ABSTRACT:

The Honor Code of the University of Tennessee Health Science Center (UTHSC) guides students in behaving in a professional and ethical manner by establishing principles of appropriate behavior in the classroom, in the laboratory, and in clinical settings. UTHSC has completed a comprehensive review of its Honor Code for students, which included input from students and the UTHSC Committee on Academic and Student Affairs. As a result of that review, UTHSC proposes revisions to its Honor Code.

The proposed revisions change the name of the UAPA rule from "Honor Code" to "The Honor System." The term "Honor System" is a more accurate and complete term that encompasses the Honor Code, the Honor Code Pledge, and the procedures for investigating and resolving allegations of violations of the Honor Code.

The proposed revisions expand the list of specific types of violations of the Honor Code in order to comprehensively establish principles of appropriate behavior in the classroom, in the laboratory, and in clinical settings.

The proposed revisions also make various changes to the procedures relating to an alleged Honor Code violation, including:

- (1) Resolving potential ambiguities in the procedure for reporting suspected violations of the Honor Code;

(2) Adding e-mail to the methods by which a Notice of Charge will be sent to an accused student;

(3) Adding a right for the accused student to be assisted by an advisor who is a UTHSC student or employee;

(4) Adding a right for the accused student to request that a hearing panel member be replaced on the grounds of bias; and

(5) Clarifying issues relating to an accused student's class attendance and grades while an allegation is pending.

The proposed revisions provide each college within UTHSC with greater flexibility in establishing policies and procedures governing the membership of each college's Honor Council, including eligibility, how members are elected and removed, how alternates are elected and removed, how vacancies are filled, and which members may vote. Such policies and procedures will be published in the UTHSC student handbook.

All other changes are non-substantive grammatical, spelling, or structural, or reflect changes to titles of administrative offices responsible for administering the Honor Code.

**Regulatory Flexibility Addendum**

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

The rules are not anticipated to have an effect on small businesses.

**Impact on Local Governments**

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

The rules are not anticipated to have an impact on local governments.

**Department of State  
Division of Publications**

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Nashville, TN 37243  
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**For Department of State Use Only**

Sequence Number: 01-04-16  
Rule ID(s): 6100  
File Date: 1/6/16  
Effective Date: 4/5/16

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.*

*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).*

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

**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
1720-03-01	The Honor System
Rule Number	Rule Title
1720-03-01-.01	Preamble and Purpose
1720-03-01-.02	The Honor Code
1720-03-01-.03	The Honor Code Pledge
1720-03-01-.04	Administration of the Honor System
1720-03-01-.05	Honor Code Violation Penalties
1720-03-01-.06	Appeals
1720-03-01-.07	College Honor Councils

**RULES  
OF  
THE UNIVERSITY OF TENNESSEE  
(HEALTH SCIENCE CENTER)**

**CHAPTER 1720-03-01  
HONOR CODE/THE HONOR SYSTEM~~CODE~~**

**1720-03-01-.01 PREAMBLE AND PURPOSE.**

- (1) The University of Tennessee Health Science Center ("UTHSC") expects and requires all students to exemplify personal integrity and responsibility in the classroom, laboratory, clinics, and other academic endeavors. UTHSC also expects and requires UTHSC students to interact with patients, colleagues, and other members of the university community in a professional and ethical manner. These expectations and requirements provide the foundation for the UTHSC Honor System ("Honor System").
  
- (2) The Honor System is composed of the following:
  - (a) The Honor Code, Chapter 1720-03-01-.02, which sets forth expected behaviors in the classroom, laboratories and clinical settings;
  
  - (b) The Honor Code Pledge, Chapter 1720-03-01-.03, which all students sign as a condition of enrollment;
  
  - (c) Rules relating to the administration of the Honor System, Chapter 1720-03-01-.04;
  
  - (d) Rules relating to penalties associated with violations of the Honor Code, Chapter 1720-03-01-.05;
  
  - (e) A process for appealing a finding of a violation of the Honor Code, Chapter 1720-03-01-.06; and
  
  - (f) The composition and functioning of the College Honor Councils, Chapter 1720-03-01-.07.

~~1720-3-1-.01 THE HONOR CODE.~~

~~(1) PREAMBLE AND PURPOSE.~~

- ~~(a) The Honor Code of The University of Tennessee Health Science Center is promulgated so that student academic affairs are conducted under the~~

highest standards of individual responsibility. The Honor Code promotes personal honor and integrity, in the best traditions of the health science professions. The Honor Code promotes academic honesty and integrity in the classroom, laboratory, clinics and other academic endeavors. The Honor Code requires students to uphold its principles of fairness, professionalism, and ethical behavior, and it also provides procedures to adjudicate alleged violations. By their pledge to subscribe to and uphold this Honor Code, UT Health Science Center students assume the responsibility for the effective application of the Honor Code, and their own academic and professional honesty and integrity. Students are required to sign the honor code pledge as a condition for enrollment at UT Health Science Center.

(b) Faculty and staff also have a responsibility to participate in the application, enforcement, and procedures of the Honor Code.

## (2) PRINCIPLES OF THE HONOR CODE

(a) All UT Health Science Center students are bound by this Honor Code and pledge to act in accordance with the highest principles of ethical and professional conduct. These principles condemn any act of dishonor relating to the academic, clinical, research and professional programs at UT Health Science Center. The pledge states that any knowledge of a violation shall be reported in accordance with the provisions and procedures of the Honor Code.

(b) The principles of this Honor Code apply to all:

1. Tests or examinations.

2. Oral, written, or practical reports that are a part of a student's academic and research program.

3. Clinical and laboratory experiences.

4. Scientific research.

5. Other student activities relating to the academic, clinical, and research programs of UT Health Science Center.

## (3) VIOLATIONS OF THE HONOR CODE

(a) It is a violation of the Honor Code for a student to:

- ~~1. Use, give, or receive any unauthorized aid during any test or examination, in the preparation of oral, written or practical reports, or in clinical or laboratory work, that are a part of a student's academic program.~~
  - ~~2. Record or report fraudulent data relating to patient care, willfully neglect clinical responsibilities, or otherwise compromise patient treatment through lack of professional integrity.~~
  - ~~3. Plagiarize—present another person's work as one's own.~~
  - ~~4. Falsify data in scientific research and reports.~~
  - ~~5. Collaborate with others in assigned out of class activities, if directions or instructions, written or verbal, specify only individual application and effort is permitted.~~
  - ~~6. Falsify academic or clinical records.~~
  - ~~7. Maliciously and falsely accuse another student of an Honor Code violation.~~
  - ~~8. Assist another student in committing any of the specified violations.~~
  - ~~9. Fail to report a violation reasonably believed to have been committed.~~
  - ~~10. Discuss or reveal confidential information or materials relating to allegations, investigations, charges and Honor Court hearings.~~
  - ~~11. Engage in other similar acts of dishonesty.~~
- ~~(b) Students, faculty, staff and/or test administrators must report observed violations to a member of the college Honor Council, in accordance with Honor Code procedures.~~
- ~~1. Any alleged violation under Article III, Section A.2 or A.1 [Rule 1720-3-1-.01(3)(a) 2 or 4] shall be immediately reported by the President or Faculty Advisor of the Honor Council to the principal clinician or investigator after the alleged violation is received.~~
- ~~(c) Suspicious Activity: If someone witnesses suspicious behavior, but is uncertain of a Honor Code violation, the person may informally report~~

the behavior to a college Honor Council member. The Honor Council member will counsel with the suspected student and advise the student that such actions are suspicious and, if continued, may lead to a formal complaint. A Honor Council member receiving a report of suspicious behavior must notify the Honor Council President before counseling the student.

~~(4) ADMINISTRATION OF THE HONOR CODE~~

~~(a) PARTICIPANTS~~

~~1. STUDENTS: The Honor Code pledge is signed by all students enrolled at the UT Health Science Center. This signed pledge is a student's pledge of honesty and integrity. The pledge obligates the student to support the ethics and provisions of the UT Health Science Center Honor Code and to participate in its procedures and actions.~~

~~2. FACULTY AND STAFF: The faculty and staff participate in the Honor Code by endorsing and supporting the principles of the Code and by applying its rules and procedures.~~

~~3. ADMINISTRATION: Offices relating to student affairs are responsible for providing advice to students regarding Honor Code procedures.~~

~~(i) Faculty advisors to college Honor Councils support the Honor Code by providing advice and counsel to Honor Council members regarding rules, procedures and the appropriate methods of administering the rules and procedures.~~

~~(ii) The Office of Student Life provides advice and orientation to College Honor Council members, faculty advisors, and other students.~~

~~(iii) The UT Health Science Center Registrar (1) makes available to each new student a printed copy of the Honor Code prior to matriculation, (2) insures that the Honor Code pledge is signed by each new student, and (3) retains the signed Honor Code pledge as a part of each student's official file.~~

~~4. HONOR COUNCILS OF THE COLLEGES: Each college has an~~

~~Honor Council that functions under the rules delineated in this Honor Code. Alleged violations of the Honor Code are processed by the Honor Council of the college in which the alleged violation occurred.~~

**1720-03-01-.02 THE HONOR CODE.**

- (1) UTHSC students must exhibit personal integrity and responsibility and conduct themselves in a professional and ethical manner with respect to:
  - (a) The classroom, including without limitation:
    1. Tests and examinations;
    2. Oral, written, and practical reports and assignments in a student's academic or research program;
    3. The use of electronic technology; and
    4. Classroom requirements set by UTHSC, a college within UTHSC ("College"), or a UTHSC faculty member.
  - (b) Laboratory work, including without limitation:
    1. Completing individual and group assignments;
    2. Reporting laboratory results;
    3. Acknowledging contributions from other individuals and sources; and
    4. Laboratory requirements set by UTHSC, a College, or a faculty member.
  - (c) Clinical work, including without limitation:
    1. Attendance and participation in clinical teams;
    2. Use of patient records;
    3. Timely completion of reports;
    4. Patient care; and

5. Clinical work requirements set by UTHSC, a College, or a faculty member.

(2) Section .02(1) shall be referred to as the "Honor Code."

(3) Violations of the Honor Code include, without limitation:

- (a) Using, receiving, or providing unauthorized assistance or possessing unauthorized information or materials: during tests, examinations, academic assignments, or scholarship; in the preparation of oral, written, or practical reports; or in clinical or laboratory work in the student's academic or research program.
- (b) Recording or reporting fraudulent data relating to patient care, willfully neglecting clinical responsibilities, or otherwise compromising patient treatment through a lack of professional integrity.
- (c) Plagiarizing (presenting another person's ideas, words, projects, creations, or work as the student's own).
- (d) Falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with academic assignments or clinical, field, or laboratory records.
- (e) Substituting for another student or have another student substituting for oneself to take an exam or perform an academic, laboratory, clinical, or field assignment.
- (f) Collaborating with others in assigned out-of-class activities, laboratory work, field work, scholarship, or other academic assignment when the instructions require individual effort.
- (g) Altering grades, answers, marks, or documents in an effort to change academic records, the earned grade, or credit.
- (h) Submitting without authorization the same assignment for credit in more than one course.
- (i) Forging a signature or allowing forgery on any class- or university-related document, such as a class roll or drop/add sheet. Such forgeries could involve false identification by electronic, paper, or other means.
- (j) Failing to follow a faculty member's instructions about the integrity of an exam or academic assignment.

- (k) Engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material or manipulating a grading system.
- (l) Maliciously and falsely accusing another student of violating the Honor Code.
- (m) Assisting another student in violating the Honor Code.
- (n) Failing to report to UTHSC in a timely manner one's reasonable belief that another person has violated the Honor Code.
- (o) Discussing or revealing confidential information or materials relating to allegations, investigations, charges, or hearings of a College Honor Council or the University Honor Court.
- (p) Engaging in unauthorized or inappropriate distribution or use of course materials (e.g., podcasts/lecture recordings), including without limitation:
  1. Sharing materials with individuals not enrolled in the UTHSC course;
  2. Posting lectures or portions of lectures to external sites;
  3. Creating clips for online video repositories; and
  4. Posting recordings of patient encounters in simulated or actual clinical settings.
- (q) Engaging in other similar acts of academic dishonesty.

~~1720-3-1-.02 PROCEDURES AND HEARING OPTIONS.~~

~~(1) PROCEDURE FOR REPORTING ALLEGED VIOLATIONS~~

- ~~(a) A complaint against any student may be filed by a student, faculty or staff member observing a suspected violation. Each complaint must be written and signed by the accuser and presented to any member of the appropriate Honor Council.~~
- ~~(b) Signed complaints are given or forwarded to the college Honor Council president and shall not be discussed with other students.~~

- ~~\_\_\_\_\_ (c) The signed complaint of one individual is sufficient to initiate an investigation of charge(s) against a student.~~
- ~~\_\_\_\_\_ (d) The president of the Honor Council appoints a council member to investigate alleged violation of the Honor Code. The investigator investigates the facts of the alleged violation(s). If the investigator finds probable cause to believe that a violation has been committed, the investigator recommends issuing a Notice of Charge. The president, upon the recommendation of the investigator, issues a Notice of Charge to the accused. The Notice of Charge is sent to the accused via certified mail. If the investigator determines there is no violation, the allegation is dismissed.~~
- ~~\_\_\_\_\_ (e) The identity of the person(s) who reported the allegation is confidential throughout the initial investigation. In the event that a Notice of Charge is issued, the accused is notified of the name(s) of the accuser(s) upon request.~~
- ~~\_\_\_\_\_ (f) Allegations, investigations, charges and Honor Court hearings are confidential.~~
- ~~\_\_\_\_\_ (g) Role of the Investigator:~~
  - ~~\_\_\_\_\_ 1. Upon receipt of a signed complaint, the college Honor Council president appoints an investigator who is charged with investigating the allegation.~~
  - ~~\_\_\_\_\_ 2. The investigator makes a recommendation to the college Honor Council president within seven (7) University working days after the investigator receives the assignment to investigate the allegation. The investigator's report, either oral or written, recommends whether a formal charge of violation should be issued by the Honor Council president. The investigation period is advisory and not mandatory due to administrative closings, holidays and class schedules.~~
  - ~~\_\_\_\_\_ 3. The investigator is responsible for prosecuting charge(s) before the College or University Honor Court if the accused requests a Honor Code hearing. A council member does not vote in any proceedings for which the member served as the investigator.~~
- ~~\_\_\_\_\_ (2) RIGHTS AND PROCEDURES OF THE ACCUSED~~

~~(a) Notice of Charge. A student charged with a violation of the Honor Code receives written notice of charge(s) stating the following:~~

- ~~1. The substance of the charge(s).~~
- ~~2. The possible penalties.~~
- ~~3. The right to a hearing if the student contests the charge(s) or action.~~
- ~~4. The name and address of the person to whom a request for a hearing should be directed.~~
- ~~5. A statement indicating that a request for a hearing must be made within five (5) University working days of receipt of this notice.~~

~~(b) Procedure for the Accused.~~

- ~~1. On receipt of the Notice of Charge, the accused student, within five (5) University working days, must respond to the college Honor Council president indicating either
  - ~~(i) An intent to plead guilty to the violation and willingness to accept the penalty assigned by the Dean; or~~
  - ~~(ii) A denial of the charge and indicating a desire to make an appeal of the charge under one of the following hearing options:
    - ~~(I) Uniform Administrative Procedures Act (UAPA),~~
    - ~~(II) College Honor Court,~~
    - ~~(III) University Honor Court~~~~~~
- ~~2. The student who does not respond in writing within five (5) University work days, waives the option of having the case heard in a College or University Honor Court, and the charge will be adjudicated under the provisions of the UAPA.~~
- ~~3. Rights of the Accused.
  - ~~(i) The student has a right to a hearing in accordance with the~~~~

~~contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-301 through 4-5-325. The hearing will be held under the provisions of the UAPA in the absence of a voluntary written waiver of this right. If the student waives the right to a hearing under UAPA, the hearing will be held in accordance with the UT Health Science Center Honor Council Hearing procedures listed under Article VII, Hearing Court Options 2 and 3. [Rule 1720-3-1-.02(3)(a) 2 and 3].~~

~~(ii) For UAPA Hearings, students may be represented by Legal Counsel. The option to obtain Legal Counsel is at the student's expense. If representation by Legal Counsel is desired, the student must provide notice of intent to be represented by Counsel concurrent with the request for the UAPA hearing. In College Honor Court and University Honor Court hearings, students may not be represented by legal counsel.~~

~~(iii) In College Honor Court and University Honor Court hearings, the College Honor Council President or the Director of Student Life will make available to an accused student, an advisor (student, faculty, or staff) knowledgeable of the Honor Code and hearing procedures. The advisor will be available to the accused prior to, and during the hearing.~~

### ~~(3) HEARING COURT OPTIONS~~

~~(a) An accused student who wishes to have a hearing on a charge has a choice of hearing options.~~

~~1. Uniform Administrative Procedures Act (UAPA). This act provides students a hearing under the State of Tennessee mandatory hearing option. A hearing under this law is held by a hearing officer appointed by the Vice President for Health Affairs of UT Health Science Center. The Office of General Counsel will prosecute the charge in UAPA hearings, even if the accused student is not represented by legal counsel. This hearing procedure is used in the absence of a voluntary written waiver of this right.~~

~~2. College Honor Court. Each UT Health Science Center college has an Honor Court. Rules of membership, assembly, quorum, and~~

voting are defined in each college's addendum. All proceedings of the college Honor Court hearing follow the procedures described in the Honor Code and in the respective college addendum. The college Honor Council president is responsible for administering the hearing, including selecting the date, appointing the Honor Court panel, notifying all parties, and recording and maintaining records of the college Honor Court hearings. The selection and service of the college Honor Court members shall follow the guidelines and procedures stated in the respective college Honor Court addendum. Members of the panel shall be impartial and members who believe they cannot be impartial shall recuse themselves from serving on the panel. The accused student may request the removal of any panel member he/she thinks might not be impartial. Decisions for such removal will be made by the college Honor Court president.

3. University Honor Court. The panel shall be composed of students from all colleges at the UT Health Science Center. Each college nominates two Honor Council members to the University Honor Court pool. The Director of Student Life will appoint seven (7) hearing panel members, from a pool of nominees, with at least two (2) panel members from the college of the accused. A chairperson will be selected from the panel and will be responsible for conducting the hearing. Members of the panel shall be impartial and members who believe they cannot be impartial shall recuse themselves from serving on the panel. The accused student may request the removal of any panel member he/she thinks might not be impartial. Decisions for such removal will be made by the Chairperson of the Hearing Court or by the Director of Student Life. The Director of Student Life or designee will be responsible for making the appropriate arrangements and notifying all parties of the time, date and place of the hearing. The Director of Student Life or designee shall also be responsible for tape recording the hearings and maintaining the records of the University Honor Court hearings.

(b) Guidelines for Honor Court Hearings. The following guidelines shall apply to College and University Honor Court hearings:

1. The hearing is held as soon as possible following receipt of the accused request for a hearing under the Honor Code system.

2. The accused has the right to be present at all times during the hearing, except during the deliberation of the Honor Court, and is

~~afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue. Evidence that is irrelevant, immaterial, repetitious, or cumulative may be limited. Judicial rules of evidence and procedure do not apply.~~

- ~~3. The accused, the investigator and Honor Court members have the right to question all witnesses.~~
- ~~4. An appropriate record is made of the hearing procedures. However, defects in the record do not invalidate the proceedings. (A tape recording system is available and should be used).~~
- ~~5. The investigator has the responsibility of proving, by a preponderance of the evidence, the truth of the charge(s) at issue.~~
- ~~6. A majority vote of the panel is required for any decision.~~
- ~~7. Following the conclusion of the hearing, the hearing panel considers the evidence and presents written findings, conclusions, and recommendations to the dean of the college in which the violation occurred.~~
- ~~8. A faculty member will be notified of the outcome of any Honor Code investigation or hearing if they were an accuser or witness in the matter.~~

#### ~~(4) PENALTIES~~

- ~~(a) Penalties for violating the UT Health Science Center Honor Code are assigned by the respective college Dean. Penalties may be probation, suspension, dismissal, or any other action deemed appropriate by the dean of the college in which the violation occurred. The Honor Court may make advisory recommendations or suggestions to the dean regarding the consequence and severity of the punishment.~~
- ~~(b) The Dean will determine the penalty to be assigned, if the accused is found guilty. The Dean considers the evidence, written findings, conclusions, and recommendations of the Honor Court in determining a punishment.~~
- ~~(c) The Dean must respond with a decision within 10 University working days of receipt of the hearing court decision. In instances in which the Dean is unavailable, a designee will be appointed.~~

~~(5) APPEALS~~

~~(a) The accused may appeal the action of the Dean by submitting an appeal in writing to the Vice President for Health Affairs within 10 days of receipt of the decision of the Dean. Where a charge is found to be true, the student charged has the burden of proving that the disciplinary action proposed is unreasonable.~~

~~1. Any appeal to the Vice President for Health Affairs can be only for the penalty assigned by the Dean. The decision of the Honor Court can not be appealed to the Vice President for Health Affairs.~~

~~(b) The Vice President for Health Affairs, or designee, must respond with a decision within ten (10) University working days of the request for the appeal.~~

**1720-03-01-.03 THE HONOR CODE PLEDGE.**

(1) All UTHSC students must sign the following pledge ("Honor Code Pledge") within two (2) weeks of the start of classes:

*I have read carefully the provisions of the Honor Code of the University of Tennessee Health Science Center and fully understand its meaning and significance, and I agree to abide by the Honor Code while a student enrolled at this institution and agree to accept all of its implications without reservation.*

(2) A student's signature under Section .03(1) indicates the student's pledge of personal integrity and responsibility and professional and ethical conduct and obligates the student to comply with the UTHSC Honor Code and the UTHSC Honor System.

~~1720-3-1-.03 HONOR COUNCILS, REPORTS AND AMENDMENTS.~~

~~(1) COLLEGE HONOR COUNCILS~~

~~(a) Composition and Elections: The composition of the Honor Council and the procedure for election of the Honor Council members/officers are determined by each college. Information describing the college councils provisions is provided in the Addenda.~~

~~(b) Officers of the Honor Councils:~~

~~1. Elections: Each Honor Council elects officers from its members for~~

~~the following offices: president, vice-president and secretary.~~

~~(i) President. The president (a) presides at all meetings of the Honor Council, (b) arranges for the hearing of any accused student, and (c) performs other duties as specified in this Honor Code.~~

~~(ii) Vice-president. The vice-president assumes the duties of the president in that officer's absence.~~

~~(iii) Secretary. The secretary (a) manages the correspondence of the Honor Council, (b) notifies all members of Honor Council meetings, (c) records attendance at meetings, and (d) keeps records of all meetings.~~

~~(c) Removal from Council: A member may be removed by two-thirds vote of the Council members for the following reasons:~~

~~1. Absence from two consecutive meetings of the Honor Council.~~

~~2. Failure to fulfill responsibilities in accordance with this Honor Code.~~

~~(d) Vacancies in an Honor Council are filled in accordance with college rules and regulations governing election of members.~~

~~(e) General Duties of the Honor Council:~~

~~1. To administer the Honor Code, the Honor Council meets at least once during the first month of each fall term and thereafter at its discretion.~~

~~2. Conducts hearings of alleged violations.~~

~~3. Keeps adequate records of all hearings that result from alleged violations of the Honor Code and reports findings to the Director of Student Life.~~

~~4. Forwards findings and recommendations in Honor Code violation proceedings to the Dean of the college.~~

~~5. Ensures that the information contained in this Honor Code is promulgated, discussed, and made readily available to all students of the college.~~

~~(2) REPORTS~~

~~(a) Information regarding the number of alleged Honor Code violations, hearings, and decisions resulting from these hearings must be kept by Honor Council presidents and reported to the Director of Student Life at the end of each academic term.~~

~~(3) AMENDMENTS~~

~~(a) A proposed amendment to this Honor Code shall be presented in writing to the President of each UT Health Science Center Honor Council. Amendments must be approved by a majority vote of the Council of each college, and by the College Honor Council Presidents, prior to submitting to the SGABC, the UT Health Science Center Chancellor and the University's Board of Trustees.~~

~~(b) Approved amendments to a college addendum shall be presented in writing to the President of the Honor Council of the college affected by the proposed amendment and need only to be approved by a majority vote of that college Honor Council. Upon approval, and concurrence by the college Dean, the amendment shall be submitted to the Chancellor and to the University's Board of Trustees.~~

~~(4) PLEDGE~~

~~(a) Each UT Health Science Center student, before matriculation, or during the new student orientation period, is required to sign the following pledge: "I have read carefully the Honor Code of The University of Tennessee Health Science Center and fully understand its meaning, significance and application. I agree to abide by this Honor Code while a student in this institution and agree to accept all of its implications without reservation."~~

\_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_  
Social Security Number \_\_\_\_\_ College \_\_\_\_\_

**1720-03-01-.04 ADMINISTRATION OF THE HONOR SYSTEM.**

**(1) Responsibility and Procedures for Reporting Violations.**

(a) UTHSC students, faculty, staff, and/or test administrators must timely report a reasonable belief that a student has violated the Honor Code, in accordance with the procedures outlined in Section .04(1)(b)(2).

(b) The procedures for reporting a violation of the Honor Code are as follows:

1. Informal Notification. Faculty, staff, students, and/or test administrators who become aware of suspicious behavior but are uncertain whether the behavior violates the Honor Code may informally report the behavior to a College Honor Council member. The Honor Council member must notify the Honor Council president and then advise the suspected student that such actions are suspicious and, if continued, may lead to a formal complaint.

2. Formal Complaints. Faculty, staff, students, and/or test administrators who reasonably believe that a student has violated the Honor Code must file a formal complaint against the student. A formal complaint is written and signed by the person alleging that a student has violated the Honor Code. A formal complaint is presented to a member of the appropriate College Honor Council. A formal complaint by one individual is sufficient to initiate an investigation against a student. Signed complaints shall be forwarded to the College Honor Council president and shall not be discussed with other students.

(c) The president or faculty advisor of the College Honor Council must immediately report any alleged violation of the Honor Code (under Section .01(b)(2)) to the faculty member/clinical supervisor/researcher at the site where the alleged violation occurred (assuming that the allegation was not initiated by this individual).

(2) Responsibilities for Administering the Honor System.

(a) UTHSC offices relating to student affairs are responsible for providing guidance to students regarding Honor System procedures.

(b) A representative of each College will discuss the Honor System with entering students during orientation and ensure that they sign the Honor Code Pledge. The signed pledge will be sent to the Registrar's office and becomes a part of the student's official UTHSC file.

- (c) Colleges are responsible for informing students of an appropriate style manual for citations.
  - (d) Each College has an Honor Council composed of current students that functions as a body for hearing cases of alleged violations of the Honor Code. UTHSC also has a University Honor Court composed of College Honor Council members. The University Honor Court also serves as a hearing body for Honor Code violation cases.
  - (e) Faculty advisors to College Honor Councils provide guidance to College Honor Council members regarding rules, procedures, and the appropriate methods of administering the Honor System.
  - (f) The Office of Vice Chancellor for Academic, Faculty and Student Affairs ("VCAFSA") provides guidance and orientation to College Honor Council members, faculty advisors, and other students.
  - (g) Any proposed change to the Honor System shall be presented in writing to the president of each College's Honor Council. A majority vote of each College Honor Council and the College Honor Council presidents must approve changes before they are submitted to the Student Government Association Executive Committee, the UTHSC Chancellor, and the University of Tennessee Board of Trustees for approval.
  - (h) Changes to a College Honor Council's procedures shall be presented in writing to the College's Honor Council president and must be approved by a majority vote of the College's Honor Council. Upon approval and concurrence by the Dean of the College, the change shall be submitted to the Chancellor for approval.
- (3) Procedures for Handling Alleged Violations of the Honor Code.
- (a) Upon receipt of a formal complaint, the president of the College Honor Council appoints a College Honor Council member to investigate and determine the facts of the alleged violation(s). The student investigator shall make an oral or written recommendation to the College Honor Council president concerning whether the president should issue a notice accusing a student of violating the Honor Code ("Notice of Charge"). A seven (7) university business day investigation period is recommended but is not mandatory.
  - (b) If the student investigator determines that a preponderance of the evidence does not support a finding that a violation of the Honor Code occurred, then the student investigator will recommend that the president

dismiss the formal complaint. The president will review the student investigator's factual findings and assess the appropriateness of this recommendation. If the president agrees that a preponderance of the evidence does not support a finding that a violation of the Honor Code occurred, then the president will dismiss the formal complaint.

(c) If the student investigator concludes that a preponderance of the evidence supports the allegation, then the student investigator will recommend the president issue a Notice of Charge. The president will review the investigator's factual findings and determine whether to accept the recommendation. If the president concludes that a preponderance of the evidence supports the allegation that the student committed a Honor Code violation, then the president shall send the accused student a Notice of Charge in accordance with Section .04(4). The president shall also send a copy of the Notice of Charge to the VCAFSA.

(d) The identity of the person(s) who reported the allegation is confidential throughout the student investigator's investigation. If a Notice of Charge is issued, then the accused student will be notified of the name(s) of the accuser(s) upon request to the president of the College Honor Council.

(4) Notice to the Accused Student and the Response from the Accused Student.

(a) A student charged with violating the Honor Code shall be given a Notice of Charge(s) that states the following:

1. Factual basis of the charge(s);
2. The penalties that could be recommended to the Dean of the student's College;
3. The student's right to a hearing if the student contests the charge(s) and/or proposed penalties;
4. The name and address of the person to whom a request for a hearing should be directed;
5. A statement indicating that a request for a hearing must be made within seven (7) university business days of the date that the Notice of Charge was sent; and
6. A statement indicating the right to consult with a faculty advisor recommended by the College.

- (b) The accused student must respond to the Notice of Charge in writing within seven (7) university business days of the date the Notice of Charge was sent. The accused student's response must indicate either:
1. That he/she acknowledges a violation of the Honor Code and agrees to accept the penalty imposed by the Dean; or
  2. That he/she denies violation of the Honor Code and requests a hearing to contest the charge(s) under one of the hearing options outlined in Section .04(5).
- (c) If the accused student does not respond to the Notice of Charge in writing within seven (7) university business days of the date the Notice of Charge was sent, then the accused student will be found responsible for the charges indicated in the Notice of Charge and a penalty will be imposed by the Dean of the student's College.
- (d) A Notice of Charge will be sent to a student by:
1. U.S. mail or courier service to the address UTHSC's Registrar has on file for the student, in which case the notice is effectively sent upon mailing or delivery to the courier service; and
  2. Electronic means (e.g., e-mail) to the student's UTHSC e-mail account, in which case the notice is effectively sent upon transmission.
- (e) In computing a period of time that is referenced in the Honor System, the day of the event that triggered the period is excluded, and the last day of the period is included unless the last day of the period is a Saturday, Sunday, or legal holiday, in which case the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (5) Hearing Options and Guidelines. An accused student who wants to contest a charge has the following hearing options:
- (a) UAPA Hearing. If it is reasonably likely that the penalty of suspension or expulsion will be imposed if the accused student is found responsible for violating the Honor Code, then the accused student has a right to a hearing under the University of Tennessee's rules for conducting contested cases under the Uniform Administrative Procedures Act, Chapter 1720-01-05 ("UAPA Hearing"). In accordance with Chapter 1720-01-03, whenever an accused student who is entitled to a UAPA hearing

requests a hearing, that hearing will be conducted in accordance with Chapter 1720-01-05 unless the accused student executes a waiver of right to proceed under Chapter 1720-01-05 and elects a hearing under Section .04(5)(b) or Section .04(5)(c). An accused student who elects a UAPA hearing shall have no right to be heard on the same matter in a College Honor Council hearing or a University Honor Court hearing.

(b) College Honor Council Hearing. This hearing is held by members of the College Honor Council from the accused student's College. The composition of the College Honor Councils is set forth in Section .07. College Honor Council hearings shall be conducted in accordance with the following guidelines:

1. A hearing panel is convened from among the members of the College Honor Council.
2. The president of the College Honor Council serves as the chair of the hearing panel. The president of the College Honor Council may appoint another member of the College Honor Council to serve as the chair of the hearing panel if the president is unavailable.
3. The hearing should be scheduled as soon as possible following receipt of the accused student's request for a hearing.
4. At least five (5) calendar days before the hearing, the student investigator should provide the accused and the College Honor Council hearing panel with all documents the investigator reasonably anticipates presenting during the hearing.
5. Both the accused student and the student investigator have the right to request the participation of witnesses. Any individual who is a member of the UTHSC community (student, faculty or staff member) is expected to participate if such a request is made. If a witness is unable to participate for some reason, the accused student or the student investigator may ask the witness to provide a written statement documenting the witness' knowledge of the case. Then, the hearing panel will determine whether to consider the written statement as evidence, balancing the potential value of the information with the fact that the witness will not be questioned as part of the hearing process.
6. If he/she feels that a member of the College Honor Council may be biased, the accused student may request that the member be

replaced by an alternate. Decisions for such removal will be made by the president of the College Honor Council in consultation with the faculty advisor to the College Honor Council. Unresolved disputes regarding such requests will be resolved by the VCAFSA.

7. Before the hearing, the College Honor Council hearing panel should meet to review the documentation, determine which (if any) witnesses should be invited to participate, discuss the procedure for the hearing, and determine the date of the hearing. After the details have been settled, the president/chairperson should schedule the hearing, inviting the accused student, his/her advisor, the student investigator, and witnesses as appropriate.
8. The student investigator will present the charge(s) to the hearing panel.
9. The accused student has the right to attend all parts of the formal hearing except the deliberation of the hearing panel. In addition, the accused has the right to question all witnesses and is afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue. The accused student may have one (1) advisor present. This advisor shall be a member of the UTHSC community (e.g. a student, faculty or staff member) but shall not be an attorney. The advisor is allowed to provide advice to the accused student during the hearing but is not allowed to question any witness or hearing panel member, introduce evidence, raise objections, present arguments, or otherwise participate in the hearing.
10. College Honor Council hearings are not open to the public; family members, supporters and any other interested party who is not an advisor to the accused student will be provided with a waiting area but are not allowed to listen to, or otherwise participate in, the formal hearing.
11. Evidence that is irrelevant, immaterial, repetitious, or cumulative may be limited. Judicial rules of evidence and procedure do not apply.
12. Allegations, investigations, charges and hearing records are confidential and shall be treated as student records that are protected by federal privacy laws (i.e., the Family Educational Rights and Privacy Act of 1974 - FERPA).

13. A verbatim record shall be made of the hearing procedures. However, defects in the record do not invalidate the proceedings.
14. After the hearing, the College Honor Council hearing panel will consider the evidence and present written findings, conclusions, and recommendations of possible penalties to the Dean of the College in which the violation occurred. The faculty advisor to the College Honor Council may attend these deliberations but should only provide advice on procedural issues.
15. At least five (5) College Honor Council members are required for a quorum. A majority vote of the hearing panel is required for any decision. The student investigator does not vote.
16. A finding of responsibility requires that the truth of the charge(s) at issue be supported by a preponderance of the evidence. The student investigator has the burden of proof.
17. If the verdict is that the student did not violate the Honor Code, then the Notice of Charge is dismissed and no penalty is imposed on the accused student.
18. Irrespective of the outcome of the hearing, all documents and recordings related to the case shall be transferred to the Office of Student Affairs as part of the official student file.
19. The president/chairperson shall notify the accused student, Dean of the College, the student investigator, and the Office of Student Affairs of the outcome of the case.

(c) University Honor Court Hearing. The University Honor Court is composed of students from all Colleges at UTHSC. Each College nominates two (2) College Honor Council members to the University Honor Court pool. For each hearing, the VCAFSA will appoint a hearing panel of seven (7) members from the pool of nominees with at least two (2) panel members from the College of the accused student. The VCAFSA will select a chairperson from the panel members for the hearing. University Honor Court hearings shall be conducted in accordance with the same guidelines outlined in Section .04(5)(b).

(6) Enrollment of Students During the Notice of Charge and Hearing.

(a) Normally, an accused student may continue attending classes after the

issuance of a Notice of Charge, assuming that the case does not extend for more than one (1) complete academic term after the alleged violation occurred. Should the case continue into the next academic term, the Grades for courses taken during that term will be listed as "I" (incomplete) until the case is finally adjudicated, converting to the grade earned if the finding of the hearing panel is that the student did not violate the Honor Code. If the student is found responsible for violating the Honor Code, the Dean of that student's College will determine the type of penalty to impose, which could include denying credit for courses attended while the case was being adjudicated. Depending on individual circumstances, students who are involved in clinical training when a Notice of Charge is filed may not be able to continue their clinical activities. The Dean (or designee) from the student's College will decide whether the student can continue attending clinical training while the case is being adjudicated. If a case extends into a second academic term following the issuance of a Notice of Charge, then the accused student will normally not be allowed to continue coursework until the case has been resolved.

- (b) If an accused student leaves the University prior to the resolution of the case, the College Honor Council president shall send a letter to the Dean describing the accusation and stating the case was not resolved before the accused's departure from school. A copy of this letter with all accompanying documents related to the case shall be forwarded to the Office of Student Affairs to be placed in the accused student's permanent record.
- (c) If an accused student leaves the University without resolving a Notice of Charge and is later readmitted, the accused student will be required to appear before the College Honor Council and resolve the Notice of Charge. If the College Honor Council finds that the student did not violate the Honor Code, then the Dean shall inform the Office of Student Affairs and request removal of the letter and all accompanying documents from the student's permanent record.

~~1720-3-1-.04 — ADDENDUM (COLLEGE HONOR COUNCILS).~~

- ~~(1) COLLEGE OF GRADUATE HEALTH SCIENCES HONOR COUNCIL (including the School of Biomedical Engineering)~~
  - ~~(a) Composition. The Honor Council of the College of Graduate Health Sciences consists of the Graduate Student Executive Council, who are voting members, and their alternates with voice but not vote. An alternate member may vote in the absence of a voting member for that~~

department.

- ~~(b) Election of Members. The members of the Honor Council are selected according to the Constitution of the Student Government Association of the UT Health Science Center College of Graduate Health Sciences, Articles IV and V.~~
- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the alternate member from the department in which the vacancy occurs becomes the voting representative for that department.~~
- ~~(d) Faculty Advisor. Each year the Dean selects one advisor, with voice but not vote, and who may be present at hearings. The advisor is an ex officio member of the Graduate Student Executive Council.~~
- ~~(e) Quorum. Five members of the Honor Council are required for a quorum for an Honor Court hearing.~~

~~(2) COLLEGE OF ALLIED HEALTH SCIENCES HONOR COUNCIL~~

- ~~(a) Composition. The Honor Council of the College of Allied Health Sciences shall consist of at least one voting representative from each class of each program. Classes with more than forty (40) students enrolled shall be represented by two voting representatives. Each class in each program shall have one alternate representative with voice but no vote except when serving in the absence of a voting representative from the particular class. Both voting representatives and alternate representatives shall attend regular Honor Council meetings. The Honor Council president shall preside over all regular meetings and Honor Court hearings. The executive officers (President, Vice President, Secretary and Treasurer) of each class governed by the Honor Code, and those of the Student Government Association Council, are ineligible to be members of the Honor Council.~~
- ~~(b) Election of Members. Each class shall elect its Council representatives within four weeks of the first day of the beginning of classes in the first academic term. Council members shall serve a term of one academic year and may be reelected at the discretion of a class. It is recommended that Honor Council representatives be reelected, if satisfactory, to provide continuity.~~
- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the particular class in which the vacancy occurs shall elect a replacement within four weeks of the vacancy. The class may, for continuity, select the~~

~~alternate representative to fill a vacancy and elect a new alternate representative.~~

~~(d) Faculty Advisor. There shall be two faculty advisors with voice but no vote, one selected annually by the Dean of the College, to serve staggered two-year terms. The faculty advisor shall be permitted to attend all proceedings of the Honor Council with voice but no vote.~~

~~(e) Quorum. A quorum of (2/3) two-thirds of the currently elected and enrolled representatives, or their designated alternates, will be required to be in attendance for proceedings concerning an Honor Code violation.~~

~~(f) Proctoring. Faculty may be present during student tests or examinations, in accordance with the Honor Code of the University of Tennessee, Health Science Center.~~

### ~~(3) COLLEGE OF DENTISTRY HONOR COUNCIL~~

~~(a) Composition. The Honor Council of the College of Dentistry consists of three elected representatives from each class and one elected alternate representative from each class. The alternate representative attends all regular meetings and participates in hearings in the absence of a representative from that class or if needed in order to constitute a quorum of the Honor Council for a hearing. During the interval between the graduation of senior representatives and the installation of new freshmen representatives, the alternates function as full Council members and participate in hearings held during this period.~~

#### ~~(b) Election of Members~~

~~1. Each new class elects its Council members within eight weeks of the first day of the beginning of classes.~~

~~2. The Honor Council representatives may be reelected at the discretion of a class. However, it is recommended that Honor Council representatives be retained, if satisfactory, to provide continuity.~~

~~(c) Vacancy. If any Council member is, for any reason, unable to sit in judicial capacity at the hearings, the respective class is represented by the elected Honor Council alternate representative, who assumes all the regular powers of a Council member. Should a regular Council member be removed from office, the vacant position is filled by the alternate member from that class and a new alternate member is elected by the~~

class.

- ~~(d) Faculty Advisors: Two Faculty Advisors are appointed by the Dean to assist the Council in its operation.~~
- ~~(e) Quorum: Two thirds of the active voting membership of the Honor Council shall constitute a quorum. Honor Court decisions are decided by a majority vote of the Hearing Court. A quorum may be established regardless of class distribution or alternate status.~~
- ~~(f) Letter of Warning: The purpose of this letter is to notify and warn a student that his/her behavior is raising concern among his/her classmates, staff and faculty and that the activity in question may be in violation of the Honor Code. If the activity or behavior continues, a formal notice of charge may follow.~~
- ~~(g) Advocacy: The associate Dean for student affairs shall also be available as the student's advocate and will assist and advise any student(s) charged with an Honor Code violation.~~

#### ~~(4) COLLEGE OF MEDICINE HONOR COUNCIL~~

- ~~(a) Composition: The Honor Council of the College of Medicine consists of three elected representatives from each class and one elected alternate representative from each class. The alternate representative attends all regular meetings and participates in hearings in the absence of a representative from that class or if needed in order to constitute a quorum of the Honor Council for a hearing. During the interval between the graduation of senior representatives and the installation of new freshmen representatives, all alternates function as full Council members and participate in hearings held during this period.~~
- ~~(b) Election of Members~~
  - ~~1. Each new class elects its Council members within 6 weeks of the first day of the beginning of classes.~~
  - ~~2. The Honor Council representatives may be reelected at the discretion of a class. However, it is recommended that Honor Council representatives be retained, if satisfactory, to provide continuity.~~
- ~~(c) Vacancy: If any Council member is, for any reason, unable to sit in judicial capacity at the hearings, the respective class is represented by the~~

~~elected Honor Council alternate representative, who assumes all the regular powers of a Council member. Should a regular Council member be removed from office, the vacant position is filled by the alternate member from that class and a new alternate member is elected by the class.~~

~~(d) Faculty Advisor. The faculty advisor is appointed by the Dean, assists the Council in its operation, but shall not be present during Council hearings.~~

~~(e) Quorum. A quorum of two-thirds (2/3) of the currently elected and enrolled representatives, available on campus, or their designated alternates, will be required to be in attendance for proceedings concerning an Honor Code violation.~~

~~(f) Letter of Warning. The College of Medicine Honor Council reserves the option to issue a letter of warning to a student in the event of multiple complaints describing suspicious behavior, but without a guilty verdict. The purpose of this letter is to notify and warn a student that his/her behavior is raising concern among his/her classmates that the activity in question may be in violation of the Honor Code. If the activity of behavior continues, a formal Notice of Charge may follow.~~

~~(g) Proctoring. Faculty are welcomed and appreciated during the beginning and conclusion of examination periods to answer questions concerning test proceedings and to supervise test administration. An avenue should be available to contact the course director or his/her representative during the exam in the event of problems. However, in the spirit of the Honor Code as a student run system, proctoring of written examinations is not allowed unless directed by an outside testing agency or certifying board. This "no proctoring" provision does not apply to practical examinations or examinations requiring proctoring.~~

#### ~~(5) COLLEGE OF NURSING HONOR COUNCIL~~

~~(a) Composition. The Honor Council of the College of Nursing consists of one president, representing all classes, and two representatives from each of the following: a) entering four semester BSN option, b) four semester senior BSN option, c) entering three semester BSN option, d) three semester Senior BSN option, e) RN to BSN option, f) eleven month BSN option, and, g) the graduate program. The Honor Council President presides over all regular meetings and over Honor Council hearings. Both representatives from each class attend regular Honor Council meetings as voting members. In the event of an Honor Court hearing, one representative from each class is selected by the Honor Council president to serve as a member of the hearing panel, and the other representative~~

serves as an alternate.

~~(b) Election of Members. The Honor Council president must be a member of the four semester senior class and is appointed by the president of the College of Nursing SGA. The two representatives are elected by each class during the fall election period. The executive officers of each class are ineligible to serve as members of the Honor Council.~~

~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, a class election is held within 4 weeks of the vacancy to elect a new representative. In the event of a vacancy of the Honor Council president, a new president is reappointed by the president of the College of Nursing SGA.~~

~~(d) Faculty Advisor. The Assistant Dean for Student Affairs shall be the College of Nursing Honor Council faculty advisor. The faculty advisor shall be permitted to attend all proceedings of the Honor Council with voice but not vote.~~

~~(e) Quorum. Two thirds of the active voting membership of the Honor Council shall constitute a quorum. Honor Court decisions are decided by a majority vote of the Hearing Court. A quorum may be established regardless of a class distribution or alternate status.~~

#### ~~(6) COLLEGE OF PHARMACY HONOR COUNCIL~~

~~(a) Composition. The Honor Council of the College of Pharmacy consists of three elected representatives from each class governed by the Honor Code who shall be voting members and one alternate member from each class with voice but not vote. The alternate member may vote in the absence of a voting member from that particular class. The executive officers (president, vice-president, secretary and treasurer) of each class governed by the Honor Code, and those of the SGA Council, are ineligible to be members of the Honor Council.~~

~~(b) Election of Members. The first year class elects its council members within 6 weeks of the first day of the beginning of classes in the first academic term. The other three classes elect their Council members in the spring Semester of each year, after class elections. Honor Council representatives may be reelected at the discretion of a class, but only at the reelection times specified above and only by majority vote. It is recommended that Honor Council representatives be reelected, if satisfactory, to provide continuity.~~

~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the alternate member from the class in which the vacancy occurs becomes the voting representative for that class.~~

~~(d) Faculty Advisor. One faculty advisor, with voice but not vote, is not present at hearings unless at the request of the Honor Council. The faculty advisor is selected each year by the Dean of the college. This advisor must be satisfactory to both the Dean and the student body.~~

~~(e) Quorum. Two thirds of the membership of the Honor Council shall constitute a quorum. Honor Council decisions are decided by a majority vote of the Honor Council. A quorum may be established regardless of class representation or alternate status.~~

#### **1720-03-01-05 HONOR CODE VIOLATION PENALTIES.**

- (1) If a hearing panel finds that an accused student violated the Honor Code, then the hearing panel will report its findings to the Dean of the accused student's College and recommend possible penalties, including probation, suspension, dismissal, or any other action deemed appropriate by the hearing panel.
- (2) The Dean will consider the evidence, written findings, conclusions, and recommendations of the hearing panel and determine the penalty within ten (10) university business days of the Dean's receipt of the hearing panel's decision. If the Dean is not available to provide a timely penalty determination, then he/she may appoint a designee to make the penalty determination.
- (3) The Dean's decision on the penalty will be sent to the student by:
  - (a) U.S. mail or courier service to the address UTHSC's Registrar has on file for the student, in which case the notice is effectively sent upon mailing or delivery to the courier service; and
  - (b) Electronic means (e.g., e-mail) to the student's UTHSC e-mail account, in which case the notice is effectively sent upon transmission.
- (4) A copy of the Dean's (or designee's) decision will be sent to the president/chairperson of the hearing panel and to the Office of Student Affairs, which will file the decision as part of the student's permanent record.
- (5) Penalties in UAPA hearings will be determined by the administrative judge, hearing examiner, and/or Agency Head in accordance with Chapter 1720-01-05.

#### **1720-03-01-06 APPEALS.**

- (1) The accused student may appeal the Dean's penalty determination in writing to the Chancellor within ten (10) university business days of receipt of the Dean's penalty determination. The accused student has the burden of proving that the penalty assigned by the Dean is unreasonable. Any appeal to the Chancellor may only address the penalty assigned by the Dean and not the decision of the College Honor Council or the University Honor Court.
- (2) The Chancellor (or designee) generally will respond to the student with a decision within ten (10) university business days of the receipt of the request for the appeal. A copy of the Chancellor's (or designee's) decision will be sent to the Office of Student Affairs and maintained in the student's permanent record.
- (3) Appeals in UAPA cases will be handled in accordance with Chapter 1720-01-05.

#### 1720-03-01-.07 COLLEGE HONOR COUNCILS.

- (1) The general duties of a College Honor Council are to:
  - (a) Conduct hearings of alleged violations of the Honor Code;
  - (b) Keep adequate records of all hearings and transfer all case records of the case to the Office of Student Affairs; and
  - (c) Forward findings and recommendations in Honor Code violation proceedings to the Dean of the College.
- (2) Each College will establish policies and procedures governing the membership of the College Honor Council, including eligibility, how members are elected and removed, how alternates are elected and removed, how vacancies are filled, and which members may vote. Such policies and procedures described in Section .07(2) shall be published in the UTHSC student handbook.
- (3) The associate dean for student affairs may assist and advise any student(s) charged with an Honor Code violation.
- (4) The Dean of a College shall appoint one faculty advisor at each of its campuses to assist the College Honor Council. The Dean will determine whether a faculty advisor will be permitted to attend all College Honor Council proceedings and whether the faculty advisor may vote.
- (5) A College Honor Council may issue a letter of warning to a student in the event of multiple complaints describing suspicious behavior but no guilty verdict. A

letter of warning would warn the student his/her behavior is raising concern among classmates, staff, and faculty that the activity in question may violate the Honor Code. If the activity or behavior continues, a formal Notice of Charge may follow.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				X	
Commissioner Julius Johnson	X				
Commissioner Candice McQueen				X	
Dr. Joe DiPietro				X	
Dr. Russ Deaton (non-voting)					

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University of Tennessee Rules  
Chapter 1720-03-01 The Honor System

Charles C. Anderson, Jr.	x				
Jalen Blue	x				
Shannon Brown	x				
George E. Cates				x	
Dr. Brian Donavant (non-voting)					
Spruell Driver, Jr.	x				
Dr. William E. Evans				x	
John N. Foy	x				
Crawford Gallimore				x	
Dr. David Golden	x				
Vicky B. Gregg	x				
Raja J. Jubran	x				
Brad A. Lampley	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Miranda N. Rutan (non-voting)					
Rhedona Rose	x				
Julia T. Wells	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 06/25/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11/20/2015

Signature: \_\_\_\_\_

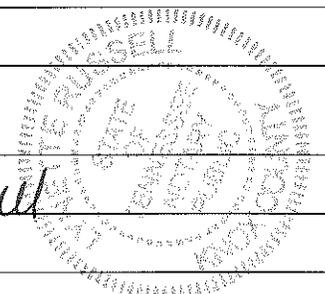
Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel

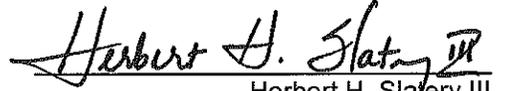
Subscribed and sworn to before me on: 11-20-15

Notary Public Signature: \_\_\_\_\_

My commission expires on: 12-4-18



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.

  
Herbert H. Slatery III  
Attorney General and Reporter  
12/11/2015 Date

Department of State Use Only

Filed with the Department of State on: 1/6/16

Effective on: 4/5/16

  
Tre Hargett  
Secretary of State

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