

**RULES
OF
THE TENNESSEE BOARD OF NURSING**

**CHAPTER 1000-01
RULES AND REGULATIONS OF REGISTERED NURSES**

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1000-01-.01 LICENSURE BY EXAMINATION.

- (1) Application - The application form provided by the Board is to be completed in part by the applicant, signed by him, and attested by a notary public.
 - (a) The name as signed by the applicant will be the name carried in the records of the Board. (See 1000-01-.03 (3) for name change regulation.)
 - (b) Part of this application is to be completed by an official of the school of nursing from which the applicant graduated.
 - (c) The completed application, accompanied by the statutory fee, shall be submitted to the Board. The filing date for the application is set by the Board for each scheduled examination.
 - (d) Part of this application shall be one (1) recent photograph signed by the applicant and the director of the program. Date photograph was taken must not be more than six (6) months from the filing date of the examination.
 - (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.
 - (f) Only a person who has filed the required application, paid the fee, and been notified of acceptance by the Board shall be permitted to write the examination.
- (2) Qualifications - Completion of a course of study in an approved school of nursing shall be required before the first day of the examination.
 - (a) Reserved.
 - (b) An applicant who graduated from a school of nursing approved by a Board in another U.S. jurisdiction shall have had substantially the same course of study as stated in the minimum curriculum requirements for Tennessee approved schools of nursing at the time of his application or he shall remove deficiencies as directed by the Board.

(Rule 1000-01-.01, continued)

- (c) Applicants who completed the course of study more than ten (10) years prior to date of application to write the examination shall be considered for eligibility to initially apply to write the examination in Tennessee only on an individual basis.
- (d) Foreign Nurses - Nurses educated in a country outside of the U.S. or its jurisdiction, whether or not licensed in another country must apply for licensure by attaining the acceptable score on the State Board Test Pool Examination provided the applicant graduated after January 1, 1957. Individuals graduating prior to January 1, 1957 will be considered on an individual basis.
 - 1. An applicant shall have graduated with substantially the same general and nursing education as required by the Board for Tennessee school of nursing graduates at the time such applicant was accepted for licensure by examination in the original foreign jurisdiction.
 - 2. When the board has reasonable doubt of an applicant's ability to comprehend the English language to a degree sufficient to permit him to discharge his duties as a nurse in this state with safety to the public, the Board may require him to pass an examination to demonstrate such ability.
 - 3. An applicant who does not have evidence of satisfactory education may have to take additional courses of study as directed by the Board in order to fulfill Tennessee requirements.
- (3) Examination and Re-examination - The Board of Nursing shall determine the time, location and schedule of examinations and conduct them according to policies and procedures which protect examination security.
 - (a) The licensure examination may be prepared by the Board or by others delegated to do so by the Board.
 - (b) The passing score for each series of the Tennessee Licensure Examination shall be determined by the Board.
 - (c) Prior to the examination date, each accepted applicant will be sent an admission card which shall be presented by the applicant for admission to the examination center.
 - (d) The statutory re-examination fee shall apply to each re-examination.
 - (e) A candidate who fails the examination is eligible to repeat the licensure examination.
 - (f) Examination Failure.
 - 1. An applicant who fails to qualify for licensure after the second examination may be requested to meet recommendations of the Board before writing subsequent examinations. Each applicant shall be considered on an individual basis.
 - 2. After an applicant for licensure by examination fails to qualify for licensure within a three year period following graduation from an approved program of nursing, the applicant must, prior to retaking the examination, complete a board approved or National League for Nursing accredited program of nursing.
 - (g) The score reported to the applicant shall remain as the permanent score unless it is challenged within four (4) months following date of examination.

(Rule 1000-01-.01, continued)

- (h) An applicant whose scores meet the requirements set by the Board will receive an official report and a license to practice nursing in Tennessee .

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-105, 63-7-106, and 63-7-207. **Administrative History:** Original rule certified May 10, 1974. Amendment filed February 28, 1983; effective March 30, 1983. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed January 30, 1987; effective March 16, 1987. Amendment filed April 12, 1996; effective June 26, 1996. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed March 23, 2007; effective June 6, 2007.

1000-01-.02 LICENSURE WITHOUT EXAMINATION: BY INTERSTATE ENDORSEMENT.

- (1) Application - The required application form for licensure without examination shall be completed in part by the applicant, signed by him, and attested to by a notary public.
 - (a) The name as signed on the application form shall be the name carried in the records of the Board. (See 1000-01-.03 (3) for name change regulation.)
 - (b) Part of the application may be a satisfactory reference from the most recent employer as to the applicant's health, character, and nursing competence.
 - (c) Part of the application shall be an official certification of the applicant's licensure for professional nursing practice in another jurisdiction.
 - (d) Part of this application shall be one (1) recent photograph signed by the applicant. Date photograph was taken must not be more than six (6) months from the filing date of the application.
 - (e) Part of this application shall be the result of a criminal background check which the applicant has caused to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials.
 - (f) The required application accompanied by the statutory fee shall be filed with the Board and a permit or license received from this Board prior to employment in professional nursing in this state.
- (2) Qualifications - With the exception of a person licensed during an initial waiver period in another U.S. jurisdiction, the applicant must be a graduate of an approved school of professional nursing and licensed by written examination in the other jurisdiction.
 - (a) An applicant shall have had substantially the same course of study as set by the Board of Tennessee schools of professional nursing at the time the applicant was accepted for licensure by examination in the other jurisdiction.
 - (b) An applicant shall have general education equivalent to that required for Tennessee's certificates for licensure by examination at the time the candidate was accepted for licensure in the first jurisdiction.
 - (c) An applicant who does not have evidence of satisfactory general or nursing education may be required to take an additional course of study or to write an examination to establish education equivalent to Tennessee's requirements at the time the applicant was accepted for licensure in the first jurisdiction.
 - (d) Tennessee RN licensure shall not be required for a registered nurse who is in Tennessee as a student, even though his educational program here involves nursing practice; however, such a person may not be employed in professional nursing in Tennessee without a proper permit or license from the Board.

(Rule 1000-01-.02, continued)

- (e) A person licensed for professional nursing in another jurisdiction by waiver shall be accepted for Tennessee licensure only if the waiver was the initial one following passage of the first registered nurse law for that jurisdiction.
 - (f) An applicant licensed in another country may be required to give evidence that he can speak, read, and write English to a satisfactory degree.
- (3) Temporary Permit to Practice Professional Nursing – The board may issue a temporary permit to a professional or registered nurse duly licensed according to the laws of another state and who has made application for permanent licensure in Tennessee, pursuant to paragraphs (1) and (2) of this rule. A permit issued under the provisions of this paragraph shall be valid for a single period of six (6) months.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-105, 63-7-106, and 63-7-207. **Administrative History:** Original rule certified May 10, 1974. Amendment filed February 28, 1983; effective March 30, 1983. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed March 23, 2007; effective June 6, 2007.

1000-01-.03 BIENNIAL REGISTRATION (RENEWAL).

- (1) The due date for renewal is the last day of the month in which a licensee's birth date falls pursuant to the Division of Health Related Board's biennial birth date renewal system.
- (a) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has been inactive in nursing for five (5) years or more, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.
 - (b) Anyone submitting a renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in Rule 1000-01-.04.
- (2) Methods of Renewal
- (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - (b) Paper Renewals - For individuals who have not renewed their registration online via the Internet, a renewal application form will be mailed to each individual licensed by the Division to the last address provided to the Division. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (3) Change of Name - A married name shall be added to that by which the person was originally licensed in Tennessee, or a change of name spelling, or deletion by divorce of the name, or change of name by adoption by which the individual was originally licensed in Tennessee, or change of name from a lay to a religious one (vice-versa) shall be made upon notification of this change to the Board accompanied by a statement signed by the licensee and payment of the required fee.
- (4) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-01-.10. The failure of any nurse to renew his/her license biennially or the failure to pay

(Rule 1000-01-.03, continued)

any fees required by law shall automatically forfeit the right of such nurse to practice nursing in this state.

- (5) Retirement - A person who has filed the required information for permanent retirement of licensure with the Board shall be permitted to use the title Registered Nurse, Retired (R.N., R.). Currently licensed registered nurses who wish to permanently retire their license may submit to the board office the following information:
 - (a) A properly completed permanent retirement affidavit form (furnished by the Board).
 - (b) Other documentation which may be required by the Board.
- (6) Procedure For Lost License - If a license or renewal certificate is lost, the nurse should notify the Board immediately. The licensee is required to complete a form, attested by a notary public, supplying identifying information and pay the required fee. In lieu of a license or renewal certificate, a statement verifying the issuance of a license will be made.
- (7) Reinstatement of an Expired or Retired License - Reinstatement of a license that has expired or has been retired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1000-01-.12; and
 - (b) Payment of the R.N. Reinstatement Renewal fee, pursuant to Rule 1000-01-.12; and
 - (c) The Board may request submission of evidence of satisfactory health, character, or professional nursing competence before renewal of registration if a licensee has expired or been retired, or if questions pertaining to health, character, or competence have been brought to the attention of the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-114, and 63-7-207. **Administrative History:** Original rule certified May 10, 1974. Amendment filed February 28, 1983; effective March 30, 1983. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed October 24, 1991; effective December 8, 1991. Amendment filed July 7, 1995; effective September 20, 1995. Amendment filed September 4, 2002; effective December 8, 2002. Amendment filed March 23, 2007; effective June 6, 2007.

1000-01-.04 DISCIPLINE OF LICENSEES, UNAUTHORIZED PRACTICE OF PROFESSIONAL NURSING, CIVIL PENALTIES, SCREENING PANELS, SUBPOENAS, ADVISORY RULINGS, DECLARATORY ORDERS, AND ASSESSMENT OF COSTS.

- (1) Violations - A misdemeanor - penalties. See Nursing Acts 1967, T.C.A. §63-7-120.
- (2) Exemptions - See Nursing Acts 1967, T.C.A. §63-7-102.
 - (a) Domestic administration of family remedies.
 - (b) Furnishing of assistance in the case of an emergency.
 - (c) Persons employed in institutions, agencies, or the office of a licensed physician or dentist, assisting in the nursing care of patients where adequate medical or nursing supervision or both is provided. Assisting is defined to mean helping, aiding or cooperating. Adequate supervision is defined to mean overseeing or inspecting with authority. The basic responsibility of the individual nurse who is required to supervise others is to determine which of the nursing needs can be delegated safely to others,

(Rule 1000-01-.04, continued)

and whether the individual to whom the duties are entrusted must be supervised personally. The following are tasks commonly performed by such persons:

1. Answers patients' signals, provides necessary assistance in conformance with delegated tasks, and notifies the appropriate nurse when the situation so indicates.
 2. Assists with the admission, transfer and discharge of patients.
 3. Assists with the dressing and undressing of patients.
 4. Assists with the patients' baths.
 5. Assists with the measuring of fluid intake and output of patients and the records on appropriate forms.
 6. Assists with the collection of urine, stool, and sputum specimens.
 7. Assists with the feeding of patients.
 8. Assists with the weighing of patients.
 9. Assists with the making of patients' beds.
 10. Assists with the application and removal of such protective devices as side rails, footboards, and bed cradles
 11. When a registered nurse undertakes to supervise other nursing tasks requiring greater skill and knowledge by such persons, the following requirements shall apply:
 - (i) Such persons shall assist with and undertake only those nursing tasks which they are qualified to perform.
 - (ii) The registered nurse shall supervise such persons.
 - (iii) The registered nurse shall retain professional accountability for nursing care when such persons are performing these activities.
 - (iv) The registered nurse shall not require assistance with or supervise nursing care activities or responsibilities by such persons contrary to the nurse practice act or rules and regulations to the detriment of patient care.
 - (v) Such persons shall have had proper instruction and supervised practice and shall have demonstrated competency in the procedure or activity.
 - (vi) There is documentation of continued competency by such persons in the performance of the procedure or activity.
 - (vii) There are written policies and procedures regarding the conditions under which the procedure or activity shall be performed by such persons.
- (d) The practice of nursing incidental to a program of study by students enrolled in nursing education program approved by the Board is exempt from licensure; however, a student of a school of nursing shall not be employed in a capacity requiring a licensed person.

(Rule 1000-01-.04, continued)

- (e) Persons belonging to a recognized church or religious denomination having religious teachings and beliefs in regard to the care of the sick by prayer.
 - (f) Care of persons in their homes by domestic servants or aides if not initially employed in a nursing capacity.
 - (g) Employees of the United States government, provided they are lawfully qualified to practice nursing in another state.
 - (h) The practice of any currently licensed nurse of another state who is presenting educational programs or consultative services within this state for a period not to exceed fourteen (14) days in a calendar year.
 - (i) The practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state. Such exemption shall be limited to a period not to exceed forty-eight (48) hours for each transport.
 - (j) The practice of nursing by students who are enrolled in Board approved refresher programs or comprehensive orientation programs.
- (3) Responsibility.
- (a) Responsibility. Each individual is responsible for personal acts of negligence under the law. Registered nurses are liable if they perform delegated functions they are not prepared to handle by education and experience and for which supervision is not provided. In any patient care situation, the registered nurse should perform only those acts for which each has been prepared and has demonstrated ability to perform, bearing in mind the individual's personal responsibility under the law.
 - (b) Registered nurses, duly licensed by the State of Tennessee who practice nursing in this state are not prohibited from expanding their roles by the Nursing Practice Act. However, R.N.'s functioning in an expanded role assume personal responsibility for all of their acts. R.N.'s who manage the medical aspects of a patient's care must have written medical protocols, jointly developed by the nurse and the sponsoring physician(s). The detail of medical protocols will vary in relation to the complexity of the situations covered and the preparation of the R.N. using them.
- (4) Discipline.
- (a) The Board has the power to deny, revoke or suspend any certificate or license to practice nursing, as provided in the Nursing Acts 1967, T.C.A. §63-7-115.
 - (b) The procedure for revocation, suspension or reissuance of a license is described in the Nursing Acts 1967, T.C.A. §63-7-116.
 - (c) Any member of the Board may grant or deny a petition for reconsideration of a final order, as provided in rule 1360-04-01-.18 (1) (b).
 - (d) Any member of the Board may, if adequate public notice is given, schedule a hearing on a petition for a stay, as provided in rule 1360-04-01-.18 (2).
- (5) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other

(Rule 1000-01-.04, continued)

than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only:

1. when the petitioner can persuade and demonstrate to the Board that compliance with any one (1) or more of the conditions or terms of the discipline previously ordered should not be required due to circumstances deemed compelling by the Board; or
2. when the petitioner can prove that compliance with any one (1) or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes compliance with the order as issued cannot or should not be achieved; and
 - (iii) A copy of all documents that are relevant to meeting the provisions of subparagraph (a). If proof of the need for order modification requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible or should not be required. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its Executive Director, or any Board member, or any Board consultant, or any Board-appointed designee to make an initial determination on the petition and take one of the following actions:
 - (i) Confirm the petitioner's legitimate difficulties with achieving compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if the petitioner's difficulties with achieving compliance are not proven to be legitimate, and notify the petitioner of what was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

(Rule 1000-01-.04, continued)

- 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
- 5. If the petition is denied either initially by the Board's Executive Director, or any Board member, or any Board consultant, or any Board-appointed designee or after presentation to the Board and the petitioner believes documentation supporting a legitimate inability to achieve compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order Modification
Board of Nursing

Petitioner's Name: _____
 Petitioner's Mailing Address: _____

 Petitioner's E-Mail Address: _____
 Telephone Number: _____
 Attorney for Petitioner: _____
 Attorney's Mailing Address: _____

 Attorney's E-Mail Address: _____
 Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order cannot or should not continue to be imposed:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show the need for order modification is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible or should not be required. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____

Petitioner's Signature

(Rule 1000-01-.04, continued)

(6) Civil Penalties

(a) Schedule of Civil Penalties

1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed, certified, permitted, or authorized by the Board, guilty of a willful and knowing violation of the Nursing Practice Act, or regulations pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purpose of this section, willfully and knowingly practicing professional nursing without a permit, license, certification, or other authorization from the Board is one of the violations of the Nursing Practice Act for which a Type A Civil Penalty is assessable.
2. A Type B Civil Penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or authorized by the Board, guilty of a violation of the Nursing Practice Act or regulations pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A Type C Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed, certified, permitted or authorized by the Board, guilty of a violation of the Nursing Practice Act or regulations pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(b) Amount of Civil Penalties

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 or more than \$1,000.
2. Type B Civil Penalties may be assessed in the amount of not less than \$100 nor more than \$750.
3. Type C Civil Penalties may be assessed in the amount of not less than \$50 nor more than \$500.

(c) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;

(Rule 1000-01-.04, continued)

- (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.
 - 4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, T.C.A.
- (7) Screening Panels - Any screening panel(s) established pursuant to T.C.A. §§ 63-7-115 and 63-7-207:
- (a) Shall have concurrent authority with the Board members and any individual nurse designated by the Board to do the acts enumerated therein and subject to the conditions contained therein.
 - 1. A Screening panel(s) comprised of three (3) or more persons shall elect a chairperson prior to convening to conduct business. The screening panel(s) shall include at least one (1) but no more than three (3) licensed nurses who may be members of the board or may serve voluntarily or through employment by or under contract with the board.
 - 2. A Screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After review of a complaint by the Board's consultant, or after completion of an investigation by the Division, a screening panel may upon request of either the state, or the licensee who is the subject of an investigation, or upon agreement of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 - 1. Neither the Rules of Civil Procedure, the rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panels(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 - 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 - 3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
 - 4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.

(Rule 1000-01-.04, continued)

5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
 - (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

(8) Subpoenas

- (a) Purpose - Although this rule applies to persons and entities other than nurses, it is the Board's intent as to nurses that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against nurses when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of the Nursing Practice Act or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the board, or any duly appointed or elected chairperson of any panel of the board, or any screening panel, and any hearing officer, arbitrator, mediator, or the Board's advisory attorney.

(c) Procedures

(Rule 1000-01-.04, continued)

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board Director of the intention to seek issuance of a subpoena. That notification must include the following:
 - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
 - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board.
 - I. In no event shall such subpoena be broadly drafted to provide investigative access to medical records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a physician's conduct, act, or omission.
 - II. If the subpoena relates to the prescribing practices of a licensee, then it shall be directed solely to the records of the patient(s) who received the pharmaceutical agents and whom the board of pharmacy or issuing pharmacy(ies) has so identified as recipients; and
 - (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and
 - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Board Director shall cause to have the following done:
 - (I) In as timely a manner as possible arrange for either an elected officer of the board, or any duly appointed or elected chairperson of any panel of the board, or any screening panel, or any hearing officer, arbitrator or mediator to preside and determine if the subpoena should be issued; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any

(Rule 1000-01-.04, continued)

manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.

(iv) The Proceedings

(I) The applicant shall do the following:

- I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
- II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
- III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the, items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
 - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
- IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(II) The Presiding Officer shall do the following:

- I. Have been selected only after assuring the Board Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- II. Commence the proceedings and swear all necessary witnesses; and
- III. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings; and
- IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and

(Rule 1000-01-.04, continued)

- V. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry; and
 - VI. Sign the subpoena as ordered to be issued; and
 - VII. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.
2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, this definition shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.
- (d) Subpoena Forms
- 1. All subpoena shall be issued on forms approved by the Board.
 - 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.
- (9) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 7 of Title 63 of the Tennessee Code Annotated, may submit a written request for an advisory ruling. The procedures for obtaining and issuance of advisory rulings are as follows:
- (a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (e) providing all the necessary information; and
 - (b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's Executive Director and advisory attorney; and
 - (c) The board shall review the proposed ruling and either make whatever revisions or substitutions it deem necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and
 - (d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee.
 - (e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Board of Nursing
Request for Advisory Ruling

(Rule 1000-01-.04, continued)

Date _____

Licensee's Name:

Licensee's Address:

_____ Zip Code _____

License Number: _____

1. The specific question or issue for which the ruling is requested:

2. The fact that gave rise to the specific question or issue:

3. The specific statutes and/or rules which are applicable to the question or issue:

Licensee's Signature

Mail or Deliver to: Executive Director, Tennessee Board of Nursing
227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243

(10) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

(11) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-7-115.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-217, 4-5-223, 4-5-312, 4-5-316, 4-5-317, 63-1-122, 63-1-144, 63-7-115, 63-7-116, and 63-7-207. **Administrative History:** Original rule certified May 10, 1974. Amendment filed May 17, 1974; effective June 17, 1974. Amendment filed October 30, 1975; effective November 30, 1975. Amendment filed February 28, 1983; effective March 30, 1983. Amendment filed February 14, 1984; effective March 15, 1984. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed December 18, 1989; effective February 1, 1990. Withdrawal to rule 1000-01-.04(6)(c) filed and effective December 4, 1999. Amendment filed October 26, 1999; effective January 9, 2000. Amendment filed April, 28, 2000; effective July 12, 2000. Amendment filed November 22, 2000;

(Rule 1000-01-.04, continued)

effective February 6, 2001. Amendments filed September 24, 2004; effective December 8, 2004. Amendment filed May 5, 2006; effective July 19, 2006.

1000-01-.05 SCHOOLS - APPROVAL.

- (1) Purpose of Approval.
 - (a) To insure the safe practice of nursing by setting standards for schools preparing the practitioner.
 - (b) To encourage study and self-evaluation within the educational units for the development and improvement of educational programs.
 - (c) To assure maximum benefit for the students in courses supplied by all cooperating agencies.
 - (d) To insure graduates of approved schools eligibility for admission to the licensing examination.
 - (e) To provide a list of approved schools of nursing and thus assist students and counselors in the selection of schools which offer approved programs in nursing.
- (2) Policies for Approval.
 - (a) Board approval of the initial development of the nursing program.
 1. Letter of intention should be submitted to the Board describing the reasons for establishing the school and the predicted timetable of development.
 2. Qualifications of the Director should be submitted to the Board.
 - (b) Board approval for the admission of students.
 1. A statement describing the philosophy, objectives, nature of organization, and administration should be submitted to the Board.
 2. The statement should contain descriptions of the following, as well:
 - (i) Student Body - Number to be admitted in first class; maximum number to be admitted, with a projected timetable; continuing source of qualified students desiring this type of program; admission policies; student services, i.e., health and medical counseling, cultural and recreational facilities.
 - (ii) Faculty - Number to be employed; dates of appointment, plan for a faculty recruitment; qualifications of appointed members. The Board considers the following as minimum number of faculty: Director plus two additional persons for each year of the program. Existing conditions of the program may require additional personnel.
 - (iii) Curriculum, educational and clinical facilities.
 - (iv) Projected budget for a five (5) year period.
 - (v) Plans for evaluation.

(Rule 1000-01-.05, continued)

- (3) Application For Board Approval - An application form for initial approval should be filed with the Board. Application will be reviewed at a regular Board meeting, and institutions will be advised of the Board's actions.
- (4) Types of Approval.
 - (a) Initial approval is granted a new school that has not been in operation long enough to graduate its first class but demonstrates its eligibility for full approval. Any agency or institution wishing to establish a school of nursing shall follow the Board policies for approval. This type of approval is essentially a tentative approval that is granted to a new school. The program is reviewed each year; and after the first students are graduated, the program is considered for full approval.
 - (b) Full approval is granted a school that has met the requirements that are set forth by the Board and has demonstrated its ability to provide an educational program which meets the Board's standards. Full approval may be granted to any school of nursing, having an initial or conditional approval and thereafter for a period of two years, if, in the opinion of the Board, it meets the minimum requirements of the Board and has demonstrated that it is providing an adequate educational program.
 - (c) Conditional approval is accorded a school which has failed to maintain minimum standards of the Board and has been notified that it must meet the Board's requirements within one (1) year from the date of notice. A school previously having initial or full approval may be granted conditional approval, if, in the opinion of the Board, it fails to meet the major educational criteria and/or curriculum standards. If within a period of one (1) year the school has not demonstrated evidence of meeting the major criteria and/or standards, conditional approval shall be withdrawn.
- (5) Renewal of Approval - Renewal is based on survey visits, conferences, and correspondence during the period and the annual report that is granted at the beginning of the calendar year. Any professional nursing school having a 15% or higher failure rate on State Board Test Pool Examination, shall receive a warning from the Board. If changes, correction and/or adjustment relative to faculty, facilities, student admission, curriculum content, and/or methods of teaching are not initiated within a specified time and such action approved by the Board, the school shall not admit a subsequent class.
- (6) Closing of a School of Nursing - When the controlling board of an institution contemplates the closing of an approved school of nursing, it shall notify the Board to this effect.
- (7) School Surveys - Schools of nursing shall be visited at least every five years by the Executive Director or authorized Board staff. Survey visits shall be conducted more frequently if:
 - (a) There is a concern regarding the school's compliance with standards for nursing education programs;
 - (b) The Director of the nursing program changes; or
 - (c) A major curriculum change is proposed.

Authority: T.C.A. §§63-736 (c), 63-7-207, and 63-7-119. **Administrative History:** Original rule certified May 10, 1974. Amendment filed September 18, 1985; effective October 18, 1985.

1000-01-.06 SCHOOLS - PHILOSOPHY, PURPOSE, ADMINISTRATION, ORGANIZATION, AND FINANCE.

- (1) Philosophy and Purpose of the School - An institution seeking initial and continuing approval of a professional nursing school shall have written statements of the educational philosophy and purpose of the school.
- (2) Controlling Institutions.
 - (a) The controlling institutions shall be incorporated as an institution; it may be a college or a university or a general hospital.
 - (b) The controlling institution shall insure the financial support, facilities, and leadership which will provide for a sound educational program and appropriate services to faculty and students.
- (3) Organization.
 - (a) The controlling institution shall have an effective organization and shall be administered in ways conducive to the accomplishment of the school purpose.
 - (b) Within the overall institutional organization and administration, provisions shall be made for the performance of administration functions for the school by a competent nurse director.
 - (c) The faculty shall be organized for participation in education administration for the school.
 - (d) Planned meetings of the faculty shall be arranged and minutes shall be kept of the proceedings.
 - (e) The faculty shall be responsible for and have authority to act on matters concerning the nature of the program and its implementation.
- (4) Records and Reports. - An accurate and comprehensive record system shall be maintained for all phases of school administration. The forms will be provided for the annual report of the school to the Board.
- (5) Bulletin. - A nursing school bulletin shall be published periodically.
- (6) Written Agreements. - When the controlling institution of the school arranges for courses or facilities in other institutions or agencies, a written agreement of mutually decided policies covering all major aspects of the cooperative relationships shall be developed and signed by administrative authorities of each institution.
- (7) Finance.
 - (a) A school shall have definite, assured, and continuing financial support sufficient to provide a staff, facilities, and other essentials for carrying out the school's stated purposes.
 - (b) A budget for the school shall be prepared in accordance with sound educational and fiscal practices.
- (8) Reserved for Future Use.

(Rule 1000-01-.06, continued)

Authority: T.C.A. §63-736 (c). **Administrative History:** Original rule certified May 10, 1974. Amendment filed May 29, 1980; effective August 27, 1980.

1000-01-.07 SCHOOLS - FACULTY.

- (1) Composition - This rule sets the minimum standards for all professional nursing programs in Tennessee. The faculty is the group which formulates and implements the educational policies for the school according to the powers delegated to it by the controlling board of the institution. The faculty shall include a stable nucleus of well qualified persons whose responsibilities are centered in the school and who have time to devote to the work of the school. The director is the person responsible for the day to day management of the program and shall be employed full-time to devote to the work of the school.
- (2) Number - Each school shall have faculty members who are employed full-time for school purposes. Each school shall also have a director who is employed full-time for school administrative purposes. For the purpose of this rule, "full-time" director is defined as the devotion of eighty percent (80%) of employment time devoted to school administrative duties.
 - (a) There shall be provision for instructional staff in all areas of the curriculum.
 - (b) Courses in which the content is primarily nursing shall be the responsibility of professional nurses.
 - (c) The number of faculty are adequate to meet the purposes and objectives of the program. The clinical ratio (faculty: student) support the standards for quality teaching and patient safety.
- (3) Qualifications. - Faculty members shall be qualified by academic preparation and experience.
 - (a) Professional requirements:
 1. Current license as a professional nurse in the State of Tennessee.
 2. Ethical and personal standards as described in "The Code For Professional Nurses."
 - (b) Educational and experience requirements:
 1. Director:
 - (i) Education: Master's Degree with a major in nursing from an accredited college or university, including or supplemented by courses in a program of studies in preparations for the responsibilities inherent in the position.
 - (ii) Experience: Three years experience in full-time teaching and/or administrative positions in an approved school of professional nursing.
 2. Teachers: There shall be at least one instructor with advanced preparation in each clinical and major teaching area who is primarily responsible for the theory and clinical nursing practice.
 - (i) Education: A Master's Degree in nursing from an accredited college or university is recommended.
 - (ii) Experience: The nursing instructor should have sufficient nursing experience to demonstrate professional competence.

(Rule 1000-01-.07, continued)

- (iii) If a less qualified teacher is employed because a qualified candidate is not available, he shall function as an assistant under the direct guidance of a faculty member fully qualified in the specific clinical area.

(4) Reserved for Future Use.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-117, 63-7-118, 63-7-119, and 63-7-207. **Administrative History:** Original rule certified May 10, 1974. Amendment filed January 31, 1985; effective March 2, 1985. Amendment filed February 21, 1996; effective May 6, 1996. Amendment filed March 21, 2005; effective June 4, 2005.

1000-01-.08 SCHOOLS - STUDENTS.

- (1) Selection and Admission. - Admission practices shall be based on stated criteria for selection and admission of students.
 - (a) Provisions shall be made for obtaining and compiling pertinent information about accepted applicants for the program.
 - (b) Acceptance of applicants should be based on completion of high school or its equivalent and eligibility for admission to the University of Tennessee.
- (2) Scholastic Standing and Graduation. - Policies regarding scholastic achievement required for continuation in and graduation from the program shall be stated in writing and made available to the students.
 - (a) Graduation shall depend upon satisfactory evidence of completion of the total requirements of the program.
 - (b) All requirements for acceptance for licensure shall have been completed before the date of the licensing examination. On the applicant's application for licensure by examination the school is required to recommend graduates in the area of health, graduation from high school or its equivalent, and completion of the approved program in nursing.
- (3) Health.
 - (a) All schools shall have an adequate student health program.
 - (b) A continuous counseling and guidance program shall be provided to facilitate optimum development of the student.
- (4) Transfer and Readmission of Students. - A student may be readmitted and accepted by transfer to a program at the discretion of the school. It shall be incumbent on the school to show that such readmission and/or transfer admission is within the established entrance policies and standards and that provisions are made for each such student to meet the requirements of the school for graduation and to qualify for the licensing examination. Consultation concerning this may be sought from the Board.
- (5) Reserved for Future Use.

Authority: T.C.A. §63-736(c). **Administrative History:** Original Rule certified May 10, 1974.

1000-01-.09 SCHOOLS - CURRICULUM, INSTRUCTION, EVALUATION.

- (1) Curriculum Organization.
 - (a) The curriculum should be designed by the faculty to reflect the educational philosophy of the school in an organized pattern, and provide opportunities for the student to develop as an individual, a citizen, and a nurse.
 - (b) The placement of courses, the selection of clinical laboratory experiences should be organized to provide continuity, correlation, and integration into the larger design of the total curriculum.
 1. Organization and instructional technique should provide for the development of basic principles and understandings from one area to another, and facilitate a sense of inter-relationship among the various disciplines and between theory and practice.
 2. The school year shall be divided into time periods, semesters, terms, quarters, etc., with dates set for the beginning and ending, and with planned clinical laboratory experiences beginning and ending at the scheduled times.
 3. Course outline, including the clinical planned laboratory experiences, shall be kept up to date and available to all members of the faculty.
- (2) Curriculum Content. The following content areas should be common to all schools:
 - (a) Biological and physical sciences with content from the fields of anatomy, physiology, chemistry, microbiology, and physics, taught as separate courses or integrated into more general courses in the science curriculum; the focus of instruction being on the understanding and application of scientific principles necessary for effective nursing care.
 - (b) Behavioral sciences, with content from the fields such as psychology, sociology, and anthropology.
 - (c) Nursing, with content from the major areas: foundations of nursing practice, care of adults and children, maternity nursing, care of the mentally as well as the physically ill, including consideration of particular age groups, promotion and maintenance of health, and prevention and detection of illness, and restoration of health, with clinical laboratory experiences planned as an integral part of the curriculum. This area of content, developed as separate courses or integrated into the more general nursing curriculum, should provide opportunities for the student to study the historical development of nursing, and the ethical and legal responsibilities, as well as professional responsibilities, of the nurse.
 - (d) Studies in other areas of learning provided by the individual schools should allow for further development of the student as an individual and as a citizen.
- (3) Major Curriculum Change.-Any major curriculum change must be presented to the Board in person by the Director of the school of nursing or his representative.
- (4) Instruction.-Instructional methods shall be varied and suited to course content and level of student learning.

(Rule 1000-01-.09, continued)

- (5) Evaluation.-The nursing education program is to be constantly evaluated to determine the relationship of its achievements to its objectives and to determine ways of augmenting its successes.
 - (a) Periodic evaluation by the faculty to include studies of student withdrawals and systematic follow-up studies of graduates of the program. Student participation in evaluation of their own achievements with respect to school objectives and in evaluation of curriculum recommended.
 - (b) Procedures for evaluation of teaching effectiveness should be established.
- (6) Reserved for Future Use.

Authority: T.C.A. § 63-736(c). **Administrative History:** Original Rule certified May 10, 1974.

1000-01-10 SCHOOLS - EDUCATIONAL FACILITIES.

- (1) Classrooms, Laboratories, Offices. - Adequate teaching facilities in the school unit and the clinical areas shall be provided for classrooms. Conference rooms and laboratories sufficient in numbers to facilitate scheduling of classes on a sound educational basis and to fulfill objectives of the school are essential. Adequate office space should be provided.
- (2) Library.
 - (a) A well-organized and up-to-date library shall be provided for the use of students and faculty.
 - (b) Collections for the nursing department should be allocated on the same basis as the collections for other departments in the institution.
- (3) Clinical Facilities.
 - (a) The clinical facilities shall be selected on the basis of adequacy for student learning experiences:
 1. The nursing faculty shall select facilities which permit them to conduct a program in keeping with their philosophy and educational objectives.
 2. Proximity of a facility to the college or hospital and continuity of its use should be considered in the selection and shall have a minimum of 100 beds.
 3. Facilities selected for clinical experience shall be approved by the appropriate accrediting agency.
 - (b) The college or hospital shall establish formal relationships with the cooperating agencies:
 1. The relationship shall be entered into after thorough study and joint planning.
 2. The written agreements shall clearly define the responsibilities of the institution and the cooperating agencies.
 3. The written agreements shall be approved by the appropriate administrative officers.
 - (c) Students must observe effective clinical practice and must have an opportunity to practice it. Effective clinical practice includes intelligent and understanding care, use of

(Rule 1000-01-.10, continued)

opportunities to preserve and to teach health, prevention of illness and deformities, concern for and participation in rehabilitative activities, and regard for the emotional, spiritual and social, as well as physical, needs of patients.

- (4) Reserved for Future Use.

Authority: T.C.A. §63-736(c). **Administrative History:** Original Rule certified May 10, 1974.

1000-01-.11 DEFINITIONS.

- (1) Accreditation: Refers to the status of the school in relation to requirements of recognized agencies other than the Tennessee Board of Nursing.
- (2) Approval: Indicates the status of the school in relation to the minimum requirements of the Tennessee Board of Nursing.
- (3) Approved School of Nursing: Means one approved by the Tennessee Board of Nursing or by a similar board in another jurisdiction.
- (4) Assisting: Means helping, aiding, supporting or cooperating.
- (5) Board: Refers to the Tennessee Board of Nursing.
- (6) Continued Competence: Means the application of integrated nursing knowledge and the interpersonal, decision-making, psychomotor, communication, and leadership skills expected for the nursing practice role pursuant to T.C.A. § 63-7-103, within the context of the public health, safety, and welfare.
- (7) Cooperating or Affiliating Agency: Any agency or institution that cooperates with the school to provide facilities and clinical resources that may be used by the school for selected student learning experiences.
- (8) Classification of Nursing Educational Programs:
 - (a) Baccalaureate: A program leading to a baccalaureate degree is conducted by an educational unit which is an integral part of a senior college or university.
 - (b) Associate Degree: A program in nursing leading to an associate degree is conducted by an educational unit in nursing (department or division) within the structure of a junior or community college or as a segment of a senior college or university.
 - (c) Diploma: A program leading to a diploma in nursing is conducted by a single purpose school under the control of a hospital.
 - (d) Practical: A program leading to a certificate in practical nursing conducted in hospitals, usually in conjunction with school boards of education.
- (9) Contract or Agreement: Written evidence of agreement between the school and cooperating agency.
- (10) Course: Means a unit of the curriculum.
- (11) Curriculum: Refers to the total group of courses including related clinical and other experiences which are organized in a systematic way.
- (12) Credit Hour: That credit assigned for one hour of lecture per week or two to four hours of lab per week for the semester or quarter.

(Rule 1000-01-.11, continued)

- (13) Direction: Means guiding, managing, authoritative instructing, governing, ordering, or ruling.
- (14) Director: Refers to the person in charge of the educational unit in nursing, regardless of his official title in any specific institution.
- (15) Examination: Refers to State Board Test Pool Examination.
- (16) General Education: Refers to secondary or high school education or the equivalent.
- (17) May: Indicates permission at the discretion of the Board.
- (18) School or School of Nursing: Educational unit having the responsibility to prepare its graduates for practice as nurses, qualified to meet licensing requirements in Tennessee.
- (19) Shall or Must: Indicates a mandatory requirement.
- (20) Should: Indicates a recommendation.
- (21) Supervision: Means overseeing or inspecting with authority. The basic responsibility of the individual nurse who is required to supervise others is to determine which of the nursing needs can be delegated safely to others, and whether the individual to whom the duties are entrusted must be supervised personally.
- (22) Program: Refers to total group of classes.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-101, 63-7-103, 63-7-207, and 63-736 (c). **Administrative History:** Original rule certified May 10, 1974. Amendment filed August 31, 2001; effective November 14, 2001.

1000-01-.12 FEES.

- (1) The Tennessee Board of Nursing hereby establishes fees as follows:

Fee	Amount
(a) R.N. Examination (R.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$ 90.00
(b) R.N. Re-examination (R.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$100.00
(c) R.N. Temporary Permit	\$ 25.00
(d) R.N. Endorsement	\$105.00
(e) R.N. Renewal	\$ 90.00
(f) R.N. Reinstatement	\$100.00
(g) R.N. Verification	\$ 25.00
(h) Biennial State Regulatory Fee (To be paid whenever an application for	\$ 10.00

(Rule 1000-01-.12, continued)

examination, re-examination, endorsement, renewal, or reinstatement is submitted.)

- (i) Certificate of Fitness \$200.00
 - (j) Change of Name \$ 0.00
 - (k) Subparagraphs (a), (b), (d), and (e) include a \$15.00 fee to support impaired nurses.
- (2) Fees paid to the Tennessee Board of Nursing are not refundable.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-105, 63-7-106, 63-7-114, 63-7-207 and 63-7-207(4).
Administrative History: Original rule filed June 1, 1982; effective July 16, 1982. Amendment filed February 13, 1985; effective March 15, 1985. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed January 12, 1988; effective February 26, 1988. Amendment filed November 27, 1989; effective January 11, 1990. Amendment filed January 31, 1990; effective March 17, 1990. Amendment filed October 19, 1990; effective December 3, 1990. Amendment filed October 26, 1990; effective December 10, 1990. Amendment filed October 24, 1991; effective December 8, 1991. Amendment filed March 11, 1993; effective April 25, 1993. Amendment filed July 7, 1995; effective September 20, 1995. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed August 21, 2001; effective November 4, 2001. Amendment filed December 16, 2005; effective March 1, 2006. Amendment filed March 23, 2007; effective June 6, 2007. Amendment filed November 18, 2009; effective February 16, 2010.

1000-01-.13 UNPROFESSIONAL CONDUCT AND NEGLIGENCE, HABITS OR OTHER CAUSE.

- (1) Unprofessional conduct, unfitness, or incompetency by reasons of negligence, habits or other causes, as those terms are used in the statute, is defined as, but not limited to, the following:
- (a) Intentionally or negligently causing physical or emotional injury to a patient;
 - (b) Failure to maintain a record for each patient which accurately reflects the nursing problems and interventions for the patient and/or failure to maintain a record for each patient which accurately reflects the name and title of the nurse providing care;
 - (c) Abandoning or neglecting a patient requiring nursing care;
 - (d) Making false or materially incorrect, inconsistent or unintelligible entries in any patient records or in the records of any health care facility, school, institution or other work place location pertaining to the obtaining, possessing or administration of any controlled substance as defined in the Federal Controlled Substances Act;
 - (e) Unauthorized use or removal of narcotics, drugs, supplies, or equipment from any health care facility, school, institution or other work place location;
 - (f) The use of any intoxicating beverage or the illegal use of any narcotic or dangerous drug while on duty in any health care facility, school, institution, or other work place location;
 - (g) Being under the influence of alcoholic beverages, or under the influence of drugs which impair judgment while on duty in any health care facility, school, institution or other work place location;
 - (h) Impersonating another licensed practitioner;

(Rule 1000-01-.13, continued)

- (i) Permitting or allowing another person to use his or her license for the purpose of nursing the sick or afflicted for compensation;
 - (j) Revocation, suspension, probation or other discipline of a license to practice nursing by another state or territory of the United States for any act or omission which would constitute grounds for the revocation, suspension, probation or other discipline of a license in this state;
 - (k) Practicing professional nursing in this state on a lapsed (state) license or beyond the period of a valid temporary permit;
 - (1) Assigning unqualified persons to perform functions of licensed persons or delegating nursing care functions and tasks and/or responsibilities to others contrary to the Nurse Practice Act or rules and regulations to the detriment of patient safety;
 - (m) Failing to supervise persons to whom nursing functions are delegated or assigned;
 - (n) Aiding, abetting, assisting or hiring an individual to violate or circumvent any law or duly promulgated rule intended to guide the conduct of a nurse or any other licensed health care provider;
 - (o) Exercising undue influence on the patient including the promotion of sale of services, goods, appliances, or drugs in such a manner as to exploit the patient for financial gain of the nurse or of a third party;
 - (p) Discriminating in the rendering of nursing services as it relates to race, age, sex, religion, national origin, or the condition of the patient;
 - (q) Violating confidentiality of information or knowledge concerning the patient, except when required to do so by a court of law;
 - (r) Failing to take appropriate action in safeguarding the patient from incompetent health care practices;
 - (s) Failing to report, through proper channels, facts known to the individual regarding incompetent, unethical or illegal practice of any health care provider;
 - (t) Over-prescribing, or prescribing in a manner inconsistent with Rules 1000-04-.08 and 1000-04-.09;
 - (u) Practicing professional nursing in a manner inconsistent with T.C.A. § 63-7-103.
 - (v) Performing nursing techniques or procedures without proper education and practice;
 - (w) Engaging in acts of dishonesty which relate to the practice of nursing.
- (2) The Board of Nursing is concerned about the number of individuals with criminal conviction histories who apply for licensure as registered nurses. The Board's concern stems from the fact that nurses care for clients and families in a variety of settings where there may be no direct supervision. Individuals to whom care is given are often vulnerable, both physically and emotionally. The nurse has access to personal information about the patient and/or his/her family, has access to the client's property and provides intimate care to the client. The Board believes that persons who receive nursing care in Tennessee should be able to have confidence that an individual licensed by the Board does not have a history of mistreatment, neglect, violence, cheating, defrauding the public, or otherwise taking advantage of another person. The Board will presume that an applicant is not entitled to

(Rule 1000-01-.13, continued)

licensure, and will therefore deny any application for initial licensure, temporary permit, or renewal following the provisions of the Administrative Procedures Act to a person who has been convicted, and on which conviction the time for appeal has expired, as an adult of any of the following crimes within five (5) years preceding said application or renewal:

- (a) Aggravated Assault, as in T.C.A. 39-13-102;
- (b) First degree Murder, as in T.C.A. 39-13-202;
- (c) Second degree Murder, as in T.C.A. 39-13-207;
- (d) Voluntary Manslaughter, as in T.C.A. 39-13-211;
- (e) False Imprisonment, as in T.C.A. 39-13-302;
- (f) Kidnapping, as in T.C.A. 39-13-303;
- (g) Aggravated Kidnapping, as in T.C.A. 39-13-304;
- (h) Especially Aggravated Kidnapping, as in T.C.A. 39-13-305;
- (i) Robbery, as in T.C.A. 39-13-401;
- (j) Aggravated Robbery, as in T.C.A. 39-13-402;
- (k) Especially Aggravated Robbery, as in T.C.A. 39-13-403;
- (l) Aggravated Rape, as in T.C.A. 39-13-502;
- (m) Rape, as in T.C.A. 39-13-503;
- (n) Aggravated Sexual Battery, as in T.C.A. 39-13-504;
- (o) Sexual Battery, as in T.C.A. 39-13-505;
- (p) Statutory Rape, as in T.C.A. 39-15-506;
- (q) Theft of Property, as in T.C.A. 39-14-103 or of services, as in T.C.A. 39-14-104, except as to a Class A misdemeanor, as in T.C.A. 39-14-105(1);
- (r) Forgery, as in T.C.A. 39-14-114;
- (s) Falsifying of Educational and Academic Records, as in T.C.A. 39-14-136;
- (t) Arson, as in T.C.A. 39-14-301;
- (u) Aggravated Arson, as in T.C.A. 39-14-302;
- (v) Burglary, as in T.C.A. 39-14-402;
- (w) Aggravated burglary, as in T.C.A. 39-14-403;
- (x) Especially Aggravated Burglary, as in T.C.A. 39-14-404;
- (y) Incest, as in T.C.A. 39-15-302;

(Rule 1000-01-.13, continued)

- (z) Aggravated Child Abuse, as in T.C.A. 39-15-402;
 - (aa) Sexual Exploitation of a Minor, as in T.C.A. 39-17-1003;
 - (bb) Aggravated Sexual Exploitation of a Minor, as in T.C.A. 39-17-1004;
 - (cc) Especially Aggravated Sexual Exploitation of a Minor, as in T.C.A. 39-17-1005;
 - (dd) Assisted Suicide, as in T.C.A. 39-13-216;
 - (ee) Rape of a child, as in T.C.A. 39-13-522.
- (3) The Board of Nursing will also deny an application for initial licensure, temporary permit, or renewal, following the provisions of the Administrative Procedures Act, to persons who were convicted as a juvenile of the following crimes within five (5) years preceding said application or renewal:
- (a) First Degree Murder, as in T.C.A. 39-13-202.
 - (b) Second Degree Murder, as in T.C.A. 39-13-207.
 - (c) Kidnapping, as in T.C.A. 39-13-207.
 - (d) Aggravated Kidnapping, as in T.C.A. 39-13-304.
 - (e) Especially Aggravated Kidnapping, as in T.C.A. 39-13-305.
 - (f) Aggravated Robbery, as in T.C.A. 39-13-402.
 - (g) Especially Aggravated Robbery, as in T.C.A. 39-13-403.
 - (h) Aggravated Rape, as in T.C.A. 39-13-502.
 - (i) Rape, as in T.C.A. 39-13-503.
- (4) Any individual who applies for initial licensure, temporary permit, or licensure renewal and supplies false or incomplete information to the Board on an application for licensure regarding the individual's criminal record will be denied said initial licensure, temporary permit, or renewal.
- (5) The Board considers any criminal conviction, whether or not listed in Rule 1000-01-.13(2) above, to be a violation of T.C.A. 63-7-115(a)(1)(B). If an applicant or a registered nurse already licensed by the Board is convicted of any crime, it is grounds for denial of licensure or disciplinary action by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 53-11-301, 63-7-101, 63-7-103, 63-7-114, 63-7-115, 63-7-116, 63-7-123, 63-7-126, and 63-7-207. **Administrative History:** Original rule filed December 3, 1982; effective January 3, 1983. Amendment filed August 27, 1993; effective October 25, 1993. Amendment filed June 16, 1994; effective August 30, 1994. Amendment filed June 29, 1999; effective September 12, 1999. Amendment filed March 21, 2005; effective June 4, 2005. Amendments filed November 4, 2005; effective January 18, 2006.

1000-01-.14 STANDARDS OF NURSING COMPETENCE. The Board requires all nurses to document evidence of competence in their current practice role. The Board believes that the individual nurse is responsible for maintaining and demonstrating competence in the practice role whether the recipient of the nursing intervention is the individual, family, community, nursing staff, nursing student body, or other.

(Rule 1000-01-.14, continued)

- (1) Standards of Nursing Practice for the Registered Nurse
 - (a) Standards Related to the Registered Nurse's Responsibility to Implement the Nursing Process - The Registered Nurse shall:
 1. Conduct and document nursing assessments of individuals and groups by:
 - (i) collecting objective and subjective data in an accurate and timely manner.
 - (ii) accurately sorting, selecting, reporting and recording the data.
 - (iii) validating, refining and modifying the data by utilizing available resources including interactions with the client, family, significant others, and health team members.
 2. Establish critical paths and teaching plans based on individual patient's plans of care after prioritizing need upon completion of a comprehensive assessment.
 3. Develop the plan of care/action based on a comprehensive assessment, desired outcomes, and current knowledge.
 4. Safely implement the plan of care/action either directly or by delegation.
 5. Establish and maintain a therapeutic nurse/client relationship.
 6. Seek resources for patients/clients with cultural, physical or language barriers.
 7. Use appropriate teaching skill for individual or group teaching.
 8. Evaluate the responses of individuals or groups to nursing interventions and revise the plan of care where appropriate. Evaluation shall involve the client, family, significant others and health team members.
 9. Communicate accurately in writing and orally with recipients of nursing care and other professionals.
 - (b) Standards Related to the Registered Nurse's Responsibilities as a Member of the Nursing Profession - The Registered Nurse shall:
 1. Integrate knowledge of the statutes and regulations governing nursing and function within the legal and ethical boundaries of nursing practice.
 2. Demonstrate personal responsibility for currency of practice and individual nursing actions.
 3. Identify practice abilities and limitations and obtain instruction and supervision as necessary when implementing essential functions of the practice role.
 4. Consult with nurses and other health team members and make referrals as necessary.
 5. Report unsafe practice and unsafe practice conditions to recognized legal authorities and to the Board where appropriate.

(Rule 1000-01-.14, continued)

6. Delegate to another only those nursing measures which that person is prepared or qualified to perform.
 7. Supervise others to whom nursing activities are delegated.
 8. Retain professional accountability for nursing care when delegating nursing interventions.
 9. Conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin, language, handicap or disease.
 10. Demonstrate a respect for the dignity and rights of clients regardless of social or economic status, personal attributes or nature of health problems.
 11. Protect confidential information unless obligated by law to disclose such information.
 12. Demonstrate respect for the property of clients, family, significant others and the employer.
 13. Participate in activities designed to improve health care delivery in any setting.
 14. Exhibit ethical behavior.
- (2) All applicants for licensure, renewal of license, reactivation of license, or reinstatement of license must demonstrate competency.
- (a) For new licensees, successfully completing the requirements of Rule .01 or .02, as applicable, shall be considered proof of sufficient competence to constitute compliance with this rule.
 - (b) For Registered Nurses who are practicing full or part-time, attesting to having practiced nursing during the past five (5) years and attesting to maintaining a personal file documenting professional competence shall be considered proof of sufficient competence to constitute compliance with this rule. Such personal file shall include evidence of continued competency in the work setting which shall consist of at least two (2) of the following parts:
 1. Having had a satisfactory employer evaluation.
 2. Having had a satisfactory peer evaluation
 3. Having a satisfactory patient/client relationship.
 4. Having a contract renewal, re-appointment, or continuing contract.
 5. Having completed a written self-evaluation based on the standards in paragraph (1).
 6. Having initially obtained or maintained, during the most recent biennial renewal period, certification from a nationally recognized certification body appropriate to practice. This part is required for advanced practice nurses pursuant to 1000-04-.03.
 7. Having identified two (2) or more areas of interest or goals and subsequently having developed, implemented and evaluated, during the most recent biennial

(Rule 1000-01-.14, continued)

renewal period, a plan to demonstrate competency for these areas of interest or goals based on the standards in paragraph (1).

8. Having performed activities including, but not limited to:
 - (i) Satisfactory volunteer work in a position using nursing knowledge, skills, and abilities. Examples are:
 - (I) The Red Cross.
 - (II) Homeless clinics.
 - (III) Parish nursing.
 - (ii) Service relevant to nursing on local, state, or national boards, commissions, foundations, or agencies.
 9. Having participated in the education of students in a program leading to licensure as a Registered Nurse or to an advanced degree in nursing.
 10. Having successfully completed five (5) contact hours of continuing education / in-service education applicable to the licensee's practice.
 11. Having had an article published relevant to nursing.
 12. Having successfully completed a two (2) week Board-approved nursing refresher program.
 13. Having successfully completed a two (2) week Board-approved comprehensive orientation program offered by a prospective nursing employer.
 14. Having enrolled in an approved/accredited nursing program leading to licensure as a Registered Nurse or to an advanced degree in nursing.
 - (i) The individual must have satisfactorily completed two (2) hours of nursing credits or equivalent during the past five (5) years.
 - (ii) An official transcript verifying the completion of nursing courses shall be maintained.
 15. Having retaken and successfully completed the examination required in Rule .01 of this chapter.
- (c) For Registered Nurses who wish to maintain an active license who are not practicing full-time, part-time, or are not self employed, attesting to any of the following activities which require the expertise of the Registered Nurse shall be considered proof of sufficient competence to constitute compliance with this rule.
1. Having performed Board-approved activities including, but not limited to:
 - (i) Satisfactory volunteer work in a position using nursing knowledge, skills, and abilities. Examples are:
 - (I) The Red Cross.
 - (II) Homeless clinics.

(Rule 1000-01-.14, continued)

- (III) Parish nursing.
 - (ii) Service relevant to nursing on local, state, or national boards, commissions, foundations, or agencies.
 - 2. Having participated in the education of students in a program leading to licensure as a Registered Nurse or to an advanced degree in nursing.
 - 3. Having successfully completed five (5) contact hours of continuing education for each year of inactivity.
 - 4. Having had an article published during the period of inactivity in a professional journal acceptable to the Board.
 - 5. Having successfully completed a two (2) week Board-approved nursing refresher program.
 - 6. Having successfully completed a two (2) week Board-approved comprehensive orientation program offered by a prospective nursing employer.
 - 7. Having enrolled in an approved/accredited nursing program leading to licensure as a Registered Nurse or to an advanced degree in nursing.
 - (i) The individual must have satisfactorily completed two (2) hours of nursing credits or equivalent during the past five (5) years.
 - (ii) An official transcript verifying the completion of nursing courses shall be submitted.
 - 8. Having retaken and successfully completed the examination required in Rule .01 of this chapter.
- (d) For Registered Nurses who have not practiced for more than five (5) years and do not intend to practice in the future, compliance with this subparagraph is not required. For Registered Nurses who have not practiced for more than five (5) years and are applicants for licensure, renewal of license, reactivation of license, or reinstatement of license, the appropriate application and one (1) of the following shall be submitted as evidence of continued nursing competence:
- 1. Proof of successful completion of five (5) contact hours of continuing education for each year of inactivity.
 - 2. Proof of having had an article published during the period of inactivity in a professional journal acceptable to the Board.
 - 3. Proof of successful completion of a two (2) week Board-approved nursing refresher program.
 - 4. Proof of successful completion of a two (2) week Board-approved comprehensive orientation program offered by a prospective nursing employer.
 - 5. Proof of enrollment in an approved/accredited nursing program leading to licensure as a Registered Nurse or to an advanced degree in nursing.

(Rule 1000-01-.14, continued)

- (i) The individual must have satisfactorily completed two (2) hours of nursing credits or equivalent during the past five (5) years.
 - (ii) An official transcript verifying the completion of nursing courses shall be submitted.
- 6. Proof of current certification in an appropriate nursing specialty area.
 - 7. Proof of retaking and successfully completing the examination required in Rule .01 of this chapter.
- (e) Documentation of compliance
- 1. Each licensee must retain documentation of completion of all continued competence requirements of this rule for a period of four (4) years from when the requirements were completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - 2. The licensee must, within thirty (30) days of a request from the Board, provide evidence of continued competence activities.
 - 3. Any licensee who fails to complete the continued competence activities or who falsely certifies completion of continued competence activities may be subject to disciplinary action pursuant to T.C.A. §§ 63-7-115, 63-7-116, 63-7-120, and 63-7-207.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-101, 63-7-103, 63-7-114, 63-7-115, 63-7-116, 63-7-120, and 63-7-207. **Administrative History:** Original rule filed February 28, 1983; effective March 30, 1983. Amendment filed January 31, 1985; effective March 2, 1985. Amendment filed August 31, 2001; effective November 14, 2001. Amendments filed October 18, 2004; effective January 1, 2005.

1000-01-.15 SCOPE OF PRACTICE.

- (1) Universal Precautions for the Prevention of HIV Transmission - The Board adopts, as if fully set out herein, rules 1200-14-03-.01 through 1200-14-03-.03 inclusive, of the Department of Health and as they may from time to time be amended, as its rule governing the process for implementing universal precautions for the prevention of HIV transmission for health care workers under its jurisdiction.
- (2) Determination and Pronouncement of Death – Pursuant to the restrictions and guidelines found in T.C.A. § 68-3-511, a registered nurse may make an actual determination and pronouncement of death for:
 - (a) residents of a hospice, a nursing home, or an assisted-care living facility; and
 - (b) patients in a hospital; and
 - (c) patients who were receiving the services of a licensed home care organization at the time of death; and
 - (d) patients who were receiving the services of a program for all-inclusive care for the elderly (PACE) which is a permanent Medicare provider as approved by the Centers for Medicare and Medicaid Services.

(Rule 1000-01-.15, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-207, 68-3-511, and 68-11-201. **Administrative History:** Original rule filed September 21, 1994; effective December 5, 1994. Amendment filed November 22, 2000; effective February 6, 2001. Amendment filed September 4, 2002; effective December 8, 2002. Amendment filed October 18, 2004; effective January 1, 2005. Amendment filed November 4, 2005; effective January 18, 2006. Amendment filed March 23, 2007; effective June 6, 2007.

1000-01-.16 CONSUMER RIGHT-TO-KNOW REQUIREMENTS. This rule shall apply only to licensees that are Certified Registered Nurse Anesthetists and to licensees that are nurse practitioners regulated pursuant to Chapter 1000-04.

- (1) The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).
- (2) Criminal Conviction Reporting Requirements - For purposes of the "Health Care Consumer Right-To-Know-Act of 1998" the criminal convictions that must be reported are for those crimes listed in paragraph (2) of Rule 1000-01-.13.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-123, 63-7-207, 63-7-209, 63-51-101, et seq. Public Chapter 373 of the Public Acts of 1999, and Public Chapter 912 of the Public Acts of 2000. **Administrative History:** Original rule filed March 9, 2001; effective May 23, 2001.

1000-01-.17 INTERSTATE NURSE LICENSURE. Pursuant to the Interstate Nurse Licensure Compact, a license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state.

- (1) Definitions. As used in this rule, the following terms shall have the following meanings ascribed to them:
 - (a) Alternative program: means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
 - (b) Board: means party state's regulatory body responsible for issuing nurse licenses.
 - (c) Coordinated licensure information system: means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of state nurse licensing boards.
 - (d) Current significant investigative information means:
 1. investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 2. investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
 - (e) Home state: means the party state which is the nurse's primary state of residence.
 - (f) Information System: means the coordinated licensure information system.

(Rule 1000-01-.17, continued)

- (g) Interstate Nurse Licensure Compact: means the uniform legislation which is substantially similar to Tennessee's Public Chapter 538 of the Public Acts of 2002, which, when enacted into law by participating states, establishes multistate licensure privileges for registered nurses and licensed practical nurses.
 - (h) Multistate licensure privilege: means current, official authority from a remote state permitting the practice of nursing as a registered nurse in such party state.
 - (i) Nurse: means a registered nurse as that term is defined by each party's state practice laws.
 - (j) Party state: means any state that has adopted the Interstate Nurse Licensure Compact.
 - (k) Primary state of residence: means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
 - (l) Public: means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.
 - (m) Remote state: means a party state, other than the home state,
 - 1. where the patient is located at the time nursing care is provided; or
 - 2. in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
- (2) Issuance of License by a Compact Party State - No applicant for initial licensure may be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable National Council Licensure Examination (NCLEX) or its predecessor examination used for licensure.
- (a) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include but is not limited to:
 - 1. Driver's license with a home address;
 - 2. Voter registration card displaying a home address; or
 - 3. Federal income tax return declaring the primary state of residence.
 - (b) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.
 - (c) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the thirty (30) day period in subparagraph (b) shall be stayed until resolution of the pending investigation.
 - (d) The former home state license shall no longer be valid upon the issuance of a new home state license.

(Rule 1000-01-.17, continued)

(e) If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days and the former home state may take action in accordance with that state's laws and rules.

(3) Limitations on Multistate Licensure Privilege - Home state boards shall include in all licensure disciplinary orders and/or agreements that limit practice and/or require monitoring the requirement that the licensee subject to said order and/or agreement will agree to limit the licensee's practice to the home state during the pendency of the disciplinary order and/or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state boards.

(4) Information System

(a) Levels of access

1. The public shall have access to nurse licensure information contained in the Information System limited to:

(i) the nurse's name,

(ii) jurisdiction(s) of licensure,

(iii) license expiration date(s),

(iv) licensure classification(s) and status(es),

(v) public emergency and final disciplinary actions, as defined by contributing state authority; and

(vi) the status of multistate licensure privileges.

2. Non-party state boards shall have access to all Information System data except current significant investigative information and other information as limited by contributing party state authority.

3. Party state boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party state authority.

(b) The licensee may request in writing to the home state board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten (10) business days correct inaccurate data to the Information System.

(c) The Board shall report to the Information System within ten (10) business days:

1. Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority)

1. Dismissal of complaint, and

2. Changes in status of disciplinary action, or licensure encumbrance.

(Rule 1000-01-.17, continued)

- (d) Current significant investigative information shall be deleted from the Information System within ten (10) business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.
- (e) Changes to licensure information in the Information System shall be completed within ten (10) business days upon notification by a board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-7-104, 63-7-105, 63-7-113, 63-7-115, 63-7-207, and 63-7-301 et seq. **Administrative History:** Original rule filed April 4, 2003; effective June 18, 2003. Amendment filed December 16, 2005; effective March 1, 2006.

1000-01-.18 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

- (1) Free Health Clinic Practice Pursuant to T.C.A. § 63-1-201
 - (a) Any nurse licensed to practice in this state or any other state who has not been disciplined by any nursing licensure board may have their license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. § 63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. § 63-1-201, at a specified site or setting by doing the following:
 - 1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and
 - 2. For nurses who have not been licensed in Tennessee, comply with all provisions of paragraph (1) of rule 1000-01-.02 and, if applicable, the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and
 - 3. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic's private, and not-for-profit status.
 - (b) A nurse holding a Special Volunteer License is not required to pay any fee for its issuance or the required biennial renewal pursuant to the Division of Health Related Board's biennial birthdate renewal system
 - (c) A nurse holding a Special Volunteer License may not do any of the following:
 - 1. Practice nursing anywhere other than in the free health clinic site or setting specified in the application; and
 - 2. Charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and
 - 3. Practice for any free health clinic that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
 - (d) Special Volunteer applicants and licensees are subject to all of the following:

(Rule 1000-01-.18, continued)

1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rule 1000-01-.03, except those requiring the payment of any fees; and
 2. The rules governing continuing nursing competence as provided by rule 1000-01-.14; and
 3. Disciplinary action for the same causes and pursuant to the same procedures as all other licenses issued by the Board.
- (2) Practice Pursuant to the "Volunteer Health Care Services Act" T.C.A. §§ 63-6-701, et seq.
- (a) Any nurse licensed in this or any other state, territory, district or possession of the United States whose license is not under a disciplinary order of suspension or revocation may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.
 - (b) Any nurse who may lawfully practice in this or any other state, territory, district or possession of the United States under an exemption from licensure and who is not under a disciplinary order of suspension or revocation and who is not and will not "regularly practice," as defined by T.C.A. § 63-6-703 (3) may practice in this state but only under the auspices of an organization that has complied with the provisions of this rule and T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.
 - (c) A nurse or anyone who practices under an exemption from licensure pursuant to this rule may not charge any fee or receive compensation or remuneration of any kind from any person or third party payor including insurance companies, health plans and state or federal benefit programs for the provision of services; and may not practice for any organization that imposes any charge on any individual to whom health care services are rendered or submits charges to any third party payor including insurance companies, health plans and state or federal benefit programs for the provision of any services.
 - (d) Any organization that organizes or arranges for the voluntary provision of health care services on residents of Tennessee may utilize persons described in subparagraphs (a) and (b) to practice only when it has complied with the provisions of T.C.A. §§ 63-6-701 through 707 and rule 1200-10-01-.12 of the Division of Health Related Boards.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-201, 63-6-701 through 63-6-707, 63-7-102, 63-7-104, 63-7-105, 63-7-207, and 63-7-210. **Administrative History:** Original rule filed March 14, 2006; effective May 28, 2006.

1000-01-.19 ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many of the public concerning nursing services, the importance of the interests affected by the choice of a registered nurse and the foreseeable consequences of unrestricted advertising by nurses which is recognized to pose special possibilities for deception, require that special care be taken by nurses to avoid misleading the public. The registered nurse must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by nurses is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.

(Rule 1000-01-.19, continued)

(2) Definitions

- (a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of a registered nurse who is licensed to practice in Tennessee.
- (b) Licensee - Any person holding a license to practice as a registered nurse in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
- (c) Material Fact - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.
- (d) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.
- (e) Discounted Fee - Shall mean a fee offered or charged by a person for a product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee".

(3) Advertising Fees and Services

- (a) Fixed Fees. Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.
- (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
- (c) Discount Fees. Discount fees may be advertised if:
 - 1. The discount fee is in fact lower than the licensee's customary or usual fee charged for the service; and
 - 2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular, non-discounted fee for that service.
- (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.
- (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.

(Rule 1000-01-.19, continued)

- (4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unprofessional conduct, and subject the licensee to disciplinary action pursuant to Rule 1000-01-.13:
- (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of professional services which the licensee knows or should know are beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality or competency of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
 - (h) The communication of personal identifiable facts, data, or information about a patient without first obtaining patient consent.
 - (i) Any misrepresentation of a material fact.
 - (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
 - (k) Statements concerning the benefits or other attributes of nursing procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
 - (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
 - (m) Failure to comply with the rules governing advertisement of fees and services, or advertising records.
 - (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Board may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
 - (o) Misrepresentation of a licensee's credentials, training, experience, or ability.

(Rule 1000-01-.19, continued)

- (p) Failure to include the corporation, partnership or individual licensee's name, address, and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees practicing at that location; and
 - 2. Maintain and conspicuously display at the licensee's office, a directory listing all licensees practicing at that location.
 - (q) Failure to disclose the fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
 - (r) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
 - (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.
 - (t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Board or its designee.
 - (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public communication.
- (6) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate

(Rule 1000-01-.19, continued)

the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-7-115, and 63-7-207. **Administrative History:** Original rule filed March 23, 2007; effective June 6, 2007.