RULES
OF
THE TENNESSEE BOARD OF NURSING

CHAPTER 1000-02
RULES AND REGULATIONS OF LICENSED PRACTICAL NURSES

TABLE OF CONTENTS

1000-02-.01	Licensure by Examination
1000-02-.02	Licensure Without Examination: Interstate Endorsement
1000-02-.03	Biennial Registration (Renewal)
1000-02-.04	Discipline of Licensees, Unauthorized Practice of Practical Nursing, Civil Penalties, Screening Panels, Subpoenas, Advisory Rulings, Declaratory Orders, and Assessment of Costs
1000-02-.05	Schools - Approval
1000-02-.06	Schools - Philosophy, Purpose, Administration, Organization and Finance
1000-02-.07	Schools - Faculty
1000-02-.08	Schools - Students
1000-02-.09	Schools - Curriculum, Instruction, Evaluation
1000-02-.10	Schools - Educational Facilities
1000-02-.11	Definitions
1000-02-.12	Fees
1000-02-.13	Unprofessional Conduct and Negligence, Habits or Other Cause
1000-02-.14	Standards of Nursing Competence
1000-02-.15	Scope of Practice
1000-02-.16	Interstate Nurse Licensure
1000-02-.17	Free Health Clinic and Volunteer Practice Requirements
1000-02-.18	Advertising

1000-02-.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 1000-02-03 (3) for name change regulation.)

(b) Part of this application is to be completed by an official of the school of practical nursing from which the applicant graduated.

(c) The completed application, accompanied by the statutory fee, shall be submitted to the Board. A 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.

(a) Reserved.

(b) An applicant for examination who graduated from a school approved by a Board of Nursing in another jurisdiction shall have had substantially the same course of study as stated in the minimum curriculum requirements for Tennessee approved schools of practical nursing at the time of his application or make up the deficiencies by the Tennessee Board.

(Rule 1000-02-.01, continued)

(c) Applicants who completed the course of study more than ten (10) years prior to the 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.

(3) Examination and Re-examination - The Board 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 form 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) An applicant who has failed the licensure examination may rewrite the examination a second time by notifying the Board and paying the required fee.

(e) The statutory re-examination fee shall apply to each re-examination.

(f) Examination Failure.

1. An applicant who fails to qualify for licensure on the second and subsequent examinations 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.

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

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-7-110, and 63-7-207.* ***Administrative History:*** *Original rule certified May 10, 1974. Amendment filed June 1, 1982; effective July 16, 1982. Amendment filed February 28, 1983; effective March 30, 1983. Amendment filed January 31, 1985; effective March 2. 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.*

1000-02-.02 LICENSURE WITHOUT EXAMINATION: 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 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 1000-02-.03 (3) for name change regulation.)

(Rule 1000-02-.02, continued)

(b) Part of the application may be a satisfactory reference from the most recent employer as to the applicant's health and practical nursing competence.

(c) Part of the application shall be an official certification of the applicant's licensure for practical nursing 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 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) 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 practical nursing in this state.

(2) Qualifications.

(a) An applicant shall have substantially the same requirements as set by this Board for graduates of Tennessee schools.

(b) A person licensed for practical nursing in another United States jurisdiction by waiver shall be accepted for Tennessee licensure only if the waiver was the initial one following passage of the first practical nurse law for that jurisdiction.

(c) 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 Practical Nursing – The board may issue a temporary permit to a practical 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, 63-7-110, 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.*

1000-02-.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 practical 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 1000-02-.04.

(2) Methods of Renewal

(Rule 1000-02-.03, continued)

(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 (or vice-versa) shall be made upon notification of this change to the Board accompanied by the 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 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 Licensed Practical Nurse, Retired (L.P.N., R.). Currently licensed practical 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 1000-02-.12; and

(b) Payment of the L.P.N. Reinstatement Renewal fee, pursuant to Rule 1000-02-.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 January 31, 1984; effective March 2, 1985. Amendment filed September 18, 1985; effective October 18, 1985. Amendment filed October 24, 1991; effective December 8, 1991. Amendment filed July 7, 1995;*

(Rule 1000-02-.03, continued)

effective September 20, 1995. Amendment filed September 4, 2002; effective December 8, 2002. Amendment filed March 23, 2007; effective June 6, 2007.

1000-02-.04 DISCIPLINE OF LICENSEES, UNAUTHORIZED PRACTICE OF PRACTICAL 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 in 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, and to determine whether the individual to whom the duties are entrusted must be supervised personally. The following are tasks commonly performed by such persons:

1. Answers patient's signals, provides necessary assistance in conforming with delegated tasks, and notifies the appropriate nurse when the situation so indicates.

2. Assists with 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 recording 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 licensed practical 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 licensed practical nurse shall supervise such persons.

(Rule 1000-02-.04, continued)

(iii) The licensed practical nurse shall retain professional accountability for nursing care when such persons are performing these activities.

(iv) The licensed practical 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 programs approved by the Board is exempt from a licensure; however, a student of a school of nursing shall not be employed in a capacity requiring a licensed person.

(e) Persons belonging to a recognized church or religious denominations 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 U.S. 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 responsibility 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) Each individual is responsible for personal acts of negligence under the law. Licensed practical 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 licensed practical 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) The Board acknowledges that licensed practical nurses have knowledge and preparation in nursing, but not to the extent required of registered nurses. The Board recognizes that licensed practical nurses engage in activities which require greater skill and knowledge than that obtained in the basic licensed practical nurse curriculum. It is the intent and purpose of these rules that licensed practical nurses only perform

(Rule 1000-02-.04, continued)

additional activities to the extent that the activity is related to the underlying scientific principles in the basic practical nurse curriculum.

(c) Before performing activities requiring greater skill and knowledge, the following criteria must be met.

1. The education or inservice shall be related to the underlying scientific principles contained in the basic practical nurse curriculum;

2. The individual shall have appropriate continuing education in the procedure or activity; and

3. The individual must demonstrate competency in the practice.

(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. §63-7-115.

(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 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

(Rule 1000-02-.04, continued)

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.

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: _____

(Rule 1000-02-.04, continued)

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

(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 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 a person 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 of the public.

(Rule 1000-02-.04, continued)

3. A Type C Civil Penalty may be imposed whenever the Board finds the person required to be 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 replies 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;

(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.

(Rule 1000-02-.04, continued)

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.

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

(Rule 1000-02-.04, continued)

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 or mediator, or the Board's advisory attorney.

(c) Procedures

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.

(Rule 1000-02-.04, continued)

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 nurse'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 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:

(Rule 1000-02-.04, continued)

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

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

(Rule 1000-02-.04, continued)

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

Date_____

Licensee's Name:
_____

Licensee's Address:
_____
_____
_____Zip Code _____

License Number: _____

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

(Rule 1000-02-.04, continued)

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 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. Amendment filed August 19, 1996; effective November 2, 1996. Withdrawal to rule 1000-02-.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; effective February 6, 2001. Amendments filed September 24, 2004; effective December 8, 2004. Amendment filed May 5, 2006; effective July 19, 2006.*

1000-02-.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 benefits for the students in courses supplied by all cooperating agencies.

(Rule 1000-02-.05, continued)

(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) Application For Approval. An institution contemplating development of a program in practical nursing shall confer with the Board representative before the program begins so that assistance may be given in interpreting Board regulations and recommendations and in promoting establishment of a sound educational program.

During the planning period an advisory council shall be formed to aid authorities in studying the need for such a program in a community and determining suitability of resources and in serving in a liaison capacity with the community.

(3) Type of Approval.

(a) Initial Approval. If the school is found to meet Board standards, it shall be granted initial approval. This approval will extend through the period of time required for the first group of students to complete the program. Toward the end of this period, another visit will be made and a written report prepared for Board Review.

(b) Full Approval. If the school continues to be operated according to approved plans during the initial approval period, consideration for full approval status will be given. Renewal of full approval is based on reports, conferences, and surveys and shall be granted on a biennial basis.

(c) Conditional Approval. Conditional approval may be accorded by the Board to any school whenever the program or conditions within the institution are found to be sub-standard.

1. The need for major correction of such condition will be brought to the attention of the authorities with a definite period of time in which changes are to be made.

2. This period is in no case to exceed a total of one calendar year.

3. If satisfactory conditions are not amended within the defined period, the Board will remove this school from the approved list.

(d) Each class of the Tennessee Practical Nurse Program is considered for approval as requested.

(4) Renewal of Approval. Renewal is based on survey visits, conferences, and correspondence during the period and the annual report and is granted at the beginning of the calendar year. Any practical nursing school or class having a 15% or higher failure rate on State Board Test Pool Examination shall receive a warning from the Board. If changes, corrections, and/or adjustments 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.

(5) Closing of a School of Practical Nursing. When the controlling Board of an institution contemplates the closing of an approved school of practical nursing, it shall then notify the Board to this effect. An institution closing a school shall provide for safe storage of vital school records and such storage shall be subject to approval by the Board.

(Rule 1000-02-.05, continued)

(6) 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 concern regarding the school's compliance with the 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.*

1000-02-.06 SCHOOLS - PHILOSOPHY, PURPOSE, ADMINISTRATION, ORGANIZATION, AND FINANCE.

(1) Philosophy and Purpose of the School. - An institution seeking initial or continuing approval of a practical nursing school shall have written statements of the philosophy and purpose of the school.

(2) Controlling Body.

(a) A practical nursing program shall be organized and controlled by a Board of Education or a non-profit general hospital.

(b) The responsibilities of the controlling body shall be clearly stated in writing.

(c) The controlling body shall insure the facilities and leadership which provide a sound educational program and appropriate services to students and to faculty.

(3) Advisory Council.

(a) An advisory council to the controlling body shall be utilized at least during the formative years of the program to assist in the planning and to aid in interpretation of needs to the controlling body and the community.

(b) The functions of this council in its relationships to the controlling body and the instructional staff should be clearly defined in writing.

(4) Organization.

(a) The institution shall have an effective organization, and it shall be administered in ways conducive to the accomplishment of the school purpose.

(b) Under the general administration of the institution, provisions shall be made for the performance of administrative functions of the school by a competent nurse.

(c) Within the framework of general institutional policy, the administrative unit for this program shall be responsible for and authorized with the power to act on matters concerned with the school.

(5) Offices. - Suitable location of facilities shall be provided for the administrative unit for the program, with adequate clerical and secretarial services.

(6) Records and Reports.

(Rule 1000-02-.06, continued)

(a) An adequate and comprehensive record system shall be maintained for all phases of the school program.

(b) Forms will be provided for the annual report of the school to the Board.

(7) Written Agreements. - The controlling institution for practical nurse programs shall be responsible for providing for all parts of the program in one or more institutions. When more than one institution is used written agreements of mutually decided policies covering all aspects of the cooperative relationships shall be made. Such agreement shall be signed by administrative authorities in each institution.

(8) Finance.

Definite, assured, and continuing financial support sufficient to provide for staff, facilities, and other essentials for carrying out the stated purpose of the program shall be provided.

(9) Reserved for Future Use.

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

1000-02-.07 SCHOOLS - FACULTY.

(1) Composition. - This rule sets the minimum standards for all practical nursing programs in Tennessee. The faculty is the group which formulates and implements education policies for the program according to the powers delegated to it by the controlling body. 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 administration of the school. For the purpose of this rule, “full-time” is defined as the devotion of eighty percent (80%) of employment time devoted to school administrative duties.

(2) Number. - There shall be at least one Registered Nurse employed full time to direct each program. There shall be at least one instructor employed full time for each class in practical nursing. The number of faculty shall be adequate to meet the purposes and objectives of the program. The clinical ratio (faculty: student) supports the standards for quality teaching and patient safety and shall not exceed ten (10) to twelve (12) students per one (1) faculty member, with ten (10) being under direct supervision.

(3) Qualifications.

(a) Faculty shall hold current licensure in good standing as registered nurses in the State of Tennessee.

(b) The nurse director shall be qualified by experience and education for this position and shall have formal education of at least a baccalaureate degree in nursing. A baccalaureate degree in a related field, as determined by the board, shall be acceptable for nurse directors hired before January 1, 1994.

(c) It is required that other nurse faculty be qualified by the following academic preparation and experience:

1. Three (3) years of clinical practice as a registered nurse within the past five (5) years, or

(Rule 1000-02-.07, continued)

2. Two (2) years of clinical practice as a registered nurse and twenty-four (24) semester hours or equivalent toward a higher degree in nursing.

(4) Titles and Descriptions. - For every position, there shall be an appropriate title indicating the educational nature of the position. There shall be written descriptions indicating the essential qualifications and the general responsibilities and functions of these positions.

(5) Personnel Policies and Practices. - Desirable employment policies and practices affecting faculty shall be established and maintained.

(6) 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 August 27, 1993; effective September 15, 1993. Amendment filed June 16, 1994; effective August 30, 1994. Amendment filed February 21, 1996; effective May 6, 1996.*

1000-02-.08 SCHOOLS - STUDENTS.

(1) Selection and Admission. - Admission practices shall be based on stated policies for selection and admission of students.

(a) There shall be provision for obtaining and compiling pertinent information about applicants for the program.

(b) Educational preparation shall be verified before acceptance into a school. Applicant must have completed the twelfth grade or its equivalent or has successfully passed the test for and has received a general equivalency diploma as determined by the State Department of Education.

(2) 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, that provision be made for each 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.

(3) Promotion and Graduation. - Policies regarding achievement required for continuance and graduation from the program shall be stated in writing and made available to students.

(a) Graduation shall depend upon satisfactory completion of total requirements of the program.

(b) All requirements for acceptance for licensure shall be met before the date of examination. A School is expected to recommend its graduates as to health, general and practical nursing education at the time they apply for licensure.

(4) 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.

(5) Reserved for Future Use.

(Rule 1000-02-.08, continued)
Authority: *T.C.A. §63-736(c).* ***Administrative History:*** *Original rule certified May 10, 1974. Amendment filed June 1, 1982; effective July 16, 1982.*

1000-02-.09 SCHOOLS - CURRICULUM, INSTRUCTION, EVALUATION.

(1) Curriculum Organization.

An organized curriculum pattern shall provide for appropriate sequence and correlation of content to aid students in effective integration of learning throughout the entire program.

(2) Curriculum Content. Minimum instruction and clinical experience:

(a) Instruction hours - 550 contact hours (this includes both classroom and planned clinical conferences).

(b) Clinical experience - a minimum of:

1. Medical-Surgical Nursing, 300 contact hours.

2. Mother and Infant care, 60 contact hours.

3. Nursing of Children, 35 contact hours.

4. Mental Health Nursing, 35 contact hours.

(c) Areas of learning:

1. Area I: Supporting Content. This area should include personal, family and community health, vocational relationships, basic anatomy and physiology, basic nutrition, and basic nursing skills including pharmacology and the administration of medication.

2. Area II: Core Content. This area includes assisting patients in all age groups to meet their needs for daily living, nursing patients with relatively stable nursing requirements and assisting the professional nurse in more complex nursing situations. Courses of instruction and clinical experience shall be planned in the nursing care of newborn infants, children, adolescents and adults across the age span. Concepts of mental health nursing shall be included in the curriculum including chemical dependency. This area is not necessarily distinct, and some aspects of it may be interwoven with Area I. Principles learned in Area I should be applied in nursing situations in Area II.

(3) Major Curriculum Change. - Schools wishing to make major curriculum change shall request approval of the Board before instituting such changes in the curriculum or before admitting new students to such a curriculum. Similarly, other major changes, such as use of new clinical facilities, must be approved in advance.

(4) Instruction.

(a) Instructional methods shall be various and suited to the course content and level of student learning.

(b) Instruction and guidance of learning experience in the clinical areas shall be the full responsibility of the instructor. She is expected to select learning experience and assign learning activities based on course content and needs of the learner. The

(Rule 1000-02-.09, continued)

nursing personnel of the hospital participates only as advisory or supplemental to the instructor.

(c) Faculty members shall share the responsibility for teaching the theoretical (classroom) content of the program such that no one faculty member shall teach all of the theoretical (classroom) content.

(5) Evaluation. - There shall be provision for continuous development, implementation, and evaluation of the program.

The grading system shall be clearly defined, and there shall be provision for periodical review of student progress.

(6) Reserved for Future Use.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-7-109, 63-7-115, 63-7-116, 63-7-118, 63-7-119, and 63-7-207.* ***Administrative History:*** *Original rule certified May 10, 1974. Amendment filed August 27, 1993; effective September 15, 1993. Amendment filed June 16, 1994; effective August 30, 1994.*

1000-02-.10 SCHOOLS - EDUCATIONAL FACILITIES.

(1) Hospital Accreditation. - Major hospital facilities used by the program shall be accredited by the appropriate accrediting agency.

(2) Classrooms. Laboratories. - Classrooms, laboratories, conference rooms, and instructional offices shall be adequate in size, number, and type according to the number of students and educational purposes for which these rooms are to be used.

(3) Library. - An organized and up-to-date library collection shall be provided for the use of students and faculty.

(4) Hospital Facilities. - Clinical resources shall be selected which will provide learning experiences implied in the stated purpose of the program.

(a) The major clinical facility to be used for any practical nursing class shall be a general hospital having an average daily census of at least fifty (50) patients, including outpatient visits and newborn infants, averaged on an annual basis.

(b) It is essential that two of the major clinical nursing fields, preferably three or more, be provided at the major clinical facility.

(c) Obstetric service used for this program shall be segregated.

(d) Practical nurse students must have an opportunity to observe effective clinical professional and practical nursing in the clinical area and must have opportunity to practice effective nursing within the scope and limit of their instruction.

(5) Reserved for Future Use.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-7-101, 63-7-109, 63-7-115, 63-7-116, 63-7-118, 63-7-119, and 63-7-207.* ***Administrative History:*** *Original rule certified May 10, 1974. Amendment filed August 27, 1993; effective September 15, 1993. Amendment filed June 15, 1994; effective August 30, 1994.*

1000-02-.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 selected nursing knowledge and the interpersonal, psychomotor, and communication skills expected for the nursing practice role pursuant to T.C.A. § 63-7-108, 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.

(c) 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) Direction: Means guiding, managing, authoritative instructing, governing, ordering, or ruling.

(13) Director: Refers to the person in charge of the educational unit in nursing, regardless of his official title in any specific institution.

(14) Examination: Refers to state Board Test Pool Examination.

(15) General Education: Refers to secondary or high school education or the equivalent.

(Rule 1000-02-.11, continued)

(16) May: Indicates permission at the discretion of the Board.

(17) 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.

(18) Shall or Must: Indicates a mandatory requirement.

(19) Should: Indicates a recommendation.

(20) 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.

(21) Program: Refers to total group of courses.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-7-101, 63-7-108, 63-7-207, and 63-736(c).* ***Administrative History:*** *Original rule certified May 10, 1974. Amendment filed August 31, 2001; effective November 14, 2001.*

1000-02-.12 FEES.

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

	Fee	Amount
(a)	L.P.N. Examination (L.P.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	$ 90.00
(b)	L.P.N. Re-Examination (L.P.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	$100.00
(c)	L.P.N. Temporary Permit	$ 25.00
(d)	L.P.N. Endorsement	$105.00
(e)	L.P.N. Renewal	$ 90.00
(f)	L.P.N. Reinstatement	$100.00
(g)	L.P.N. Verification	$ 25.00
(h)	Biennial State Regulatory Fee (To be paid whenever an application for examination, re-examination, endorsement, renewal, or reinstatement is submitted.)	$ 10.00
(i)	Change of Name	$ 0.00

(j) Subparagraphs (a), (b), (d), and (e) include a $10.00 fee to support impaired nurses.

(2) Fees paid to the Tennessee Board of Nursing are not refundable.

(Rule 1000-02-.12, continued)

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-7-110, 63-7-111, 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 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 March 23, 2007; effective June 6, 2007. Amendment filed November 18, 2009; effective February 16, 2010.*

1000-02-.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;

(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 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 practical nursing in this state on a lapsed (state) license or beyond the period of a valid temporary permit;

(l) 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;

(Rule 1000-02-.13, continued)

(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) Practicing practical nursing in a manner inconsistent with T.C.A. § 63-7-108.

(u) Performing nursing techniques or procedures without proper education and practice;

(v) 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 licensed practical 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 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. 39-13-302;

(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;

(Rule 1000-02-.13, continued)

(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. 39-13-505;

(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 Education 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;

(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 provision 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:

(Rule 1000-02-.13, continued)

(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. 39-13-303.

(d) Aggravated Kidnapping, as in T.C.A. 39-13-305.

(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 conviction record will be denied said initial licensure, temporary permit, or renewal.

(5) The Board considers any criminal conviction, whether or not listed in Rule 1000-02-.13(2) above, to be a violation T.C.A. § 63-7-115(a)(1)(B). If an applicant or a licensed practical 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, 2-5-204, 63-736, 63-7-101, 63-7-108, 63-7-114, 63-7-115, 63-7-116, and 63-7-207.* ***Administrative History:*** *Original rule certified December 3, 1982; effective January 3, 1983. Amendment filed August 27, 1993; effective September 15, 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.*

1000-02-.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.

(1) Standards of Nursing Practice for the Licensed Practical Nurse.

(a) Standards Related to the Licensed Practical Nurse's Contribution to and Responsibility for the Nursing Process - The Licensed Practical Nurse shall:

1. Contribute to the nursing assessment by collecting, reporting and recording objective and subjective data in an accurate and timely manner.

2. Participate in the development of the plan of care/action in consultation with a Registered Nurse.

3. Participate in the assisting and giving of safe direct care.

4. Participate in establishing and maintaining a therapeutic nurse/client relationship.

5. Seek resources for patients/clients with cultural, physical or language barriers.

(Rule 1000-02-.14, continued)

6. Contribute to the evaluation of the responses of individuals or groups to nursing interventions and participate in revising the plan of care where appropriate.

7. Communicate accurately in writing and orally with recipients of nursing care and other professionals.

(b) Standards Relating to the Licensed Practical Nurse's Responsibilities as a Member of the Health Team - The Licensed Practical Nurse shall:

1. Integrate knowledge of the statutes and regulations governing nursing and function within the legal and ethical boundaries of practical nursing practice.

2. Demonstrate personal responsibility for individual nursing actions and currency of competence.

3. Consult with Registered Nurses and/or other health team members and seek guidance as necessary.

4. Identify practice abilities and limitations and obtain instruction and supervision as necessary when implementing essential functions of the practice role.

5. Report unsafe practice and unsafe practice conditions to recognized legal authorities and to the Board where appropriate.

6. Conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin, language, handicap, or disease.

7. Demonstrate respect for the dignity and rights of clients regardless of social or economic status, personal attributes or nature of health problems.

8. Protect confidential information, unless obligated by law to disclose such information.

9. Demonstrate respect for the property of clients, family, significant others, and the employer.

10. Participate in activities designed to improve health care delivery in any setting.

11. 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 Practical 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.

(Rule 1000-02-.14, continued)

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.

7. Having identified two (2) or more areas of interest or goals and subsequently having developed, implemented and evaluated, during the most recent biennial 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 successfully completed five (5) contact hours of continuing education /in-service education applicable to the licensee's practice.

10. Having had an article published relevant to nursing.

11. Having successfully completed a two (2) week Board-approved nursing refresher program.

12. Having successfully completed a two (2) week Board-approved comprehensive orientation program offered by a prospective nursing employer.

13. Having enrolled in an approved/accredited program leading to licensure as a Registered or Practical 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.

14. Having retaken and successfully completed the examination required in Rule .01 of this chapter.

(Rule 1000-02-.14, continued)

(c) For Practical 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 Practical 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.
      (III) Parish nursing.
   (ii) Service relevant to nursing on local, state, or national boards, commissions, foundations, or agencies.

2. Having successfully completed five (5) contact hours of continuing education for each year of inactivity.

3. Having had an article published during the period of inactivity in a professional journal acceptable to the Board.

4. Having successfully completed a two (2) week Board-approved nursing refresher program.

5. Having successfully completed a two (2) week Board-approved comprehensive orientation program offered by a prospective nursing employer.

6. Having enrolled in an approved/accredited program leading to licensure as a Registered or Practical 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.

7. Having retaken and successfully completed the examination required in Rule .01 of this chapter.

(d) For Practical Nurses who have not practiced for more than (5) years and do not intend to practice in the future, compliance with this subparagraph is not required. For Practical 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.

(Rule 1000-02-.14, continued)

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 program leading to licensure as a Registered or Practical 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.

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, 63-7-108, 63-7-114, 63-7-115, 63-7-116, 63-7-120, and 63-7-207.* ***Administrative History:*** *Original rule certified 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.*

1000-02-.15 SCOPE OF PRACTICE.

(1) Intravenous (IV) Push Medications - The administration of intravenous push medications refers to medications administered from a syringe directly into an ongoing intravenous infusion or into a saline or heparin lock. Intravenous push does not include saline or heparin flushes.

(a) Licensed Practical Nurses may deliver selected intravenous push medications when prescribed by a licensed health care professional who has legal authority to prescribe such medications, and when under the supervision of a licensed physician, dentist or registered nurse pursuant to T.C.A. § 63-7-108, provided:

1. the Licensed Practical Nurse has a minimum of six (6) months experience as a licensed nurse; and

(Rule 1000-02-.15, continued)

2. the Licensed Practical Nurse has successfully completed a course of study developed from the Infusion Nurse Society Standards; or

3. has successfully completed a formal (institutional/agency-based) intravenous therapy training and competency program prior to January 1, 2007; and

4. the Licensed Practical Nurse practices under the supervision (defined as "overseeing with authority") of a licensed physician, dentist, or registered nurse pursuant to T.C.A.§ 63-7-108. The supervisor shall maintain accountability for the delegation while the Licensed Practical Nurse is accountable for his/her acts; and

5. the Licensed Practical Nurse administers IV push medications in peripheral lines only; and

6. Competency is demonstrated to the chief nursing officer or the chief nursing officer's representative when the Licensed Practical Nurse is employed by a facility required to be licensed pursuant to T.C.A. § 68-11-204, or competency is demonstrated to the supervising physician or dentist when the Licensed Practical Nurse is not employed by a facility required to be licensed pursuant to T.C.A. § 68-11-204; and

7. Documentation of competence is maintained in the Licensed Practical Nurse's personnel file, signed and attested to by the facility's chief nursing officer; and

8. the Licensed Practical Nurse administers IV push medications only to adults weighing over eighty (80) pounds.

(b) Licensed Practical Nurses shall not administer IV push medications to pediatric or prenatal and ante partum obstetrical patients.

(c) Licensed Practical Nurses shall not administer the following fluids/medication/agents or drug classifications in the context of intravenous therapy:

1. Chemotherapy; and

2. Serums; and

3. Oxytocics; and

4. Tocolytics; and

5. Thrombolytics; and

6. Blood or blood products; and

7. Titrated medications and dosages calculated and adjusted by the nurse based on patient assessment and/or interpretation of lab values and requiring the nurse's professional judgment; and

8. Moderate sedation; and

9. Anesthetics; and

10. Paralytics; and

11. Investigative or experimental drugs.

(Rule 1000-02-.15, continued)

(2) 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.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-7-108, 63-7-109, and 63-7-207.* ***Administrative History:*** *Original rule filed September 21, 1994; effective December 5, 1994. Amendment filed November 22, 2000; effective February 6, 2001. Amendment filed January 18, 2006; effective April 3, 2006.*

1000-02-.16 INTERSTATE NURSE LICENSURE. Pursuant to the Interstate Nurse Licensure Compact, a license to work as a practical nurse 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 work as a practical 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.

(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 practical nurse in such party state.

(i) Nurse: means a practical 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.

(Rule 1000-02-.16, continued)

(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.

(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

(Rule 1000-02-.16, continued)

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)

2. Dismissal of complaint, and

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

(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, 63-7-109, 63-7-110, 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.*

1000-02-.17 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 1000-02-.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:

1. All rules governing renewal, retirement, reinstatement and reactivation as provided by rules 1000-02-.03, except those requiring the payment of any fees; and

2. The rules governing continuing nursing competence as provided by rule 1000-02-.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.

(Rule 1000-02-.17, continued)

(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, 63-7-108, 63-7-109, 63-7-207, and 63-7-210.* ***Administrative History:*** *Original rule filed March 14, 2006; effective May 28, 2006.*

1000-02-.18 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 licensed practical 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 licensed practical 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.

(2) Definitions

(a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of a licensed practical nurse who is licensed to practice in Tennessee.

(b) Licensee - Any person holding a license to practice as a licensed practical nurse in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.

(Rule 1000-02-.18, continued)

(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.

(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 1000-02-.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.

(Rule 1000-02-.18, continued)

(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.

(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

(Rule 1000-02-.18, continued)

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 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.*