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Sequence Number: 01-09-10  
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File Date: 01/11/2010

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Board of Nursing
<b>Division:</b>	
<b>Contact Person:</b>	E. Ashley Carter Deputy General Counsel
<b>Address:</b>	Office of General Counsel 220 Athens Way, Suite 210 Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-1611
<b>Email:</b>	<a href="mailto:Ashely.carter@tn.gov">Ashely.carter@tn.gov</a>

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	ADA Coordinator at the Division of Health Related Boards
<b>Address:</b>	227 French Landing, Suite 300 Nashville, TN 37243
<b>Phone:</b>	(615) 532-4397
<b>Email:</b>	

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Iris Conference Room – Heritage Place MetroCenter		
Address 2:	227 French Landing Drive		
City:	Nashville, Tennessee		
Zip:	37228		
Hearing Date :	03/04/2010		
Hearing Time:	8:45 a.m.	<input checked="" type="checkbox"/> _X_ CST	<input type="checkbox"/> _EST

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
1000-01	Rules and Regulations of Registered Nurses
Rule Number	Rule Title

1000-01-.17	Interstate Nurse Licensure
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<b>Chapter Number</b>	<b>Chapter Title</b>
1000-02	Rules and Regulations of Licensed Practical Nurses
<b>Rule Number</b>	<b>Rule Title</b>
1000-02-.16	Interstate Nurse Licensure

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

## Substance of Proposed Rules

### Chapter 1000-01-.17 Rules and Regulations of Registered Nurses

### Chapter 1000-02-.16 Rules and Regulations of Licensed Practical Nurses

#### Amendments

Rule 1000-01-.17 Interstate Nurse Licensure is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

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

- (1) Definitions. As used in this rule, the following terms shall have the following meanings ascribed to them:
  - (a) "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
  - (b) "Board" means party state's regulatory body responsible for issuing nurse licenses.
  - (c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of state nurse licensing boards.
  - (d) "Current significant investigative information" means:
    1. investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
    2. investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
  - (e) "Home state" means the party state which is the nurse's primary state of residence.
  - (f) "Information System" means the coordinated licensure information system.
  - (g) "Interstate Nurse Licensure Compact" means the uniform legislation which is substantially similar to Tennessee's Public Chapter 538 of the Public Acts of 2002, which, when enacted into law by participating states, establishes multistate licensure privileges for registered nurses and licensed practical nurses.
  - (h) "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as a registered nurse in such party state.
  - (i) "Nurse" means a registered nurse as that term is defined by each party's state practice laws.
  - (j) "Party state" means any state that has adopted the Interstate Nurse Licensure Compact.

- (k) "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
  - (l) "Public" means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.
  - (m) "Remote state" means a party state, other than the home state,
    - 1. where the patient is located at the time nursing care is provided; or
    - 2. in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
- (2) Issuance of License by a Compact Party State – As of July 1, 2005, 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; or
    - 4. Military Form No. 2058 – state of legal residence certificate; or
    - 5. W2 From US Government or any bureau, division or agency thereof indicating the declared state of residence.
  - (b) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.
  - (c) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.
  - (d) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.
  - (e) 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.
  - (f) 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.
  - (g) The former home state license shall no longer be valid upon the issuance of a new home state license.
  - (h) 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 – Discipline

- (a) 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.
- (b) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of primary residence, may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state(s), a multistate license may be issued.

(4) Information System

(a) Levels of access

- 1. The public shall have access to nurse licensure information contained in the Information System limited to:
    - (i) the nurse's name,
    - (ii) jurisdiction(s) of licensure,
    - (iii) license expiration date(s),
    - (iv) licensure classification(s) and status(es),
    - (v) public emergency and final disciplinary actions, as defined by contributing state authority; and
    - (vi) the status of multistate licensure privileges.
  - 2. Non-party state boards shall have access to all Information System data except current significant investigative information and other information as limited by contributing party state authority.
  - 3. Party state boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party state authority.
- (b) The licensee may request in writing to the home state board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten (10) business days correct inaccurate data to the Information System.
- (c) The Board shall report to the Information System within ten (10) business days:
- 1. Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority)
  - 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, 63-7-104, 63-7-105, 63-7-113, 63-7-115, 63-7-207, and 63-7-301 et seq.  
**Administrative History:** Original rule filed April 4, 2003; effective June 18, 2003. Amendment filed December 16, 2005; effective March 1, 2006.

Rule 1000-02-.16 Interstate Nurse Licensure is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

1000-02-.16 Interstate Nurse Licensure. Pursuant to the Interstate Nurse Licensure Compact, a license to practice practical nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a 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.

- (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 – As of July 1, 2005, 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; or
    - 4. Military Form No. 2058 – state of legal residence certificate; or
    - 5. W2 From US Government or any bureau, division or agency thereof indicating the declared state of residence.
  - (b) A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.
  - (c) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license.
  - (d) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e. a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.
  - (e) 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.
  - (f) 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.
  - (g) The former home state license shall no longer be valid upon the issuance of a new home state license.
  - (h) 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 – Discipline
- (a) 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.
  - (b) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of primary residence, may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state(s), a multistate license may be issued.
- (4) Information System
- (a) Levels of access
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    - 2. Dismissal of complaint, and
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  - (d) Current significant investigative information shall be deleted from the Information System within ten (10) business days upon report of disciplinary action, agreement or order requiring

participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.

- (e) Changes to licensure information in the Information System shall be completed within ten (10) business days upon notification by a board.

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: January 11, 2010

Signature: E. Ashley Carter

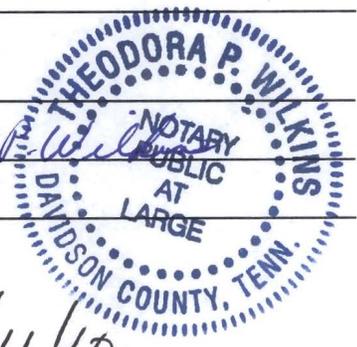
Name of Officer: E. Ashley Carter

Title of Officer: Deputy General Counsel  
Department of Health

Subscribed and sworn to before me on: 1/11/2010

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011



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Filed with the Department of State on: 1/11/10

Tre Hargett  
Tre Hargett  
Secretary of State

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