Department of Health
Notice of Rulemaking Hearing
Board of Examiners for Nursing Home Administrators
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Examiners for Nursing Home Administrators to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-16-103. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 3:30 p.m. (CDT) on the 19th day of May, 2006.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, Tennessee 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1020-1-.03 Board Officers, Records, Meetings, Consultants, Change of Address and/or Name, Declaratory Orders, and Screening Panels, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) shall read:

(5) The Board members or the Board's consultant/designee are individually vested with the authority to do the following acts:

(a) Conduct Nursing Home Administrator reviews as provided in Rule 1020-1-.14;

(b) Review and make determinations on applications for initial licensure, renewal of licensure, and reactivation and reinstatement of licensure subject to the rules governing those respective applications;

(c) Decide whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division; and

(d) Decide whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently considered by the full Board and either adopted or rejected.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-132, 63-1-142, 63-16-103, 63-16-107, and 63-16-108.

Rule 1020-1-.10, Examinations, is amended by part (1) (b) 3. in its entirety and substituting instead the following language, and is further amended by adding the following language as parts (1) (b) 4. and (1) (b) 5., so that as amended, the new parts (1) (b) 3., (1) (b) 4., and (1) (b) 5. shall read:

(1) (b) 3. Applicants who fail to successfully complete the examination on the initial attempt may apply to retake it by complying with the requirements stated in subparagraph (1) (a) of this rule.

(1) (b) 4. Applicants who fail twice to successfully complete the examination shall do the following before each subsequent retaking:

(i) Complete an additional A.I.T. program which emphasizes training in the deficient areas and is at least three (3) months in length; or

(ii) Submit to the Board for approval an education and training program as an alternative to the additional A.I.T. program. Any alternative education and training program must be approved by the Board prior to the applicant beginning such program, and must be successfully completed before retaking the examination.

(1) (b) 5. Applicants who fail twice to successfully complete the examination may, in the Board's discretion, be required to furnish a written opinion of his/her reasons for the failure or may be required to appear before the Board to deliver an oral opinion. Failure of an applicant to provide the written or oral opinion shall cause the licensure application to be closed.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, and 63-16-106.

Rule 1020-1-.15, Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs, and Subpoenas, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting paragraph (7) in its entirety and substituting instead the following language, so that as amended, the new catchline and the new paragraph (7) shall read:

1020-1-.15 Licensure Discipline, Civil Penalties, Assessment of Costs, and Subpoenas.

(7) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-103, and 63-16-108.

This space left blank intentionally.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Examiners for Nursing Home Administrators.

Robbie H. Bell, Director
Division of Health Related Boards

Subscribed and sworn to before me this the 6th day of March, 2006.

Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 14 day of March, 2006.

Riley C. Darnell
Secretary of State

By: _____

RECEIVED
2006 MAR 14 PM 2:53
SECRETARY OF STATE
PUBLICATIONS