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Sequence Number: 05-01-11  
Rule ID(s): 4947  
File Date: 05/02/2011  
Effective Date: 07/31/2011

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	Department of Health
<b>Division:</b>	Communicable and Environmental Disease Services
<b>Contact Person:</b>	Mary Kennedy, Deputy General Counsel, Department of Health
<b>Address:</b>	220 Athens Way, Suite 210 Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741- 1611
<b>Email:</b>	Mary.Kennedy@tn.gov

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

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
1200-14-01	Communicable and Environmental Diseases
Rule Number	Rule Title
1200-14-01-.24	Exclusion from School for Special Diseases

(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>)

Rules of  
Tennessee Department of Health  
Health Services Administration  
Communicable and Environmental Disease Services

Chapter 1200-14-01  
Communicable and Environmental Diseases

Amendments

Rule 1200-14-01-.24 Exclusion from School for Special Diseases is amended by deleting the rule in its entirety and substituting the following language so that as amended the new language shall read:

- (1) It shall be the duty of the school authorities for any public, private, or church-related school and day care or Head Start authorities to exclude from their facilities any child who is infected with or suspected of having the following diseases: measles, rubella, mumps, chickenpox and other illnesses designated by the local health officer as requiring exclusion.
- (2) With respect to an infestation of pediculosis or scabies, it shall be the duty of school authorities for any public, private, or church-related school and day care or Head Start authorities to follow the guidelines promulgated by the U. S. Centers for Disease Control and Prevention. At any time the Department receives notice that those guidelines have been modified, it shall promptly notify the Department of Education.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
NA					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Health, Health Services Administration Communicable and Environmental Disease Services on 10/25/10, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/31/10

Rulemaking Hearing(s) Conducted on: (add more dates). 10/25/10

Date: 12/07/10

Signature: Mary Kennedy

Name of Officer: Mary Kennedy

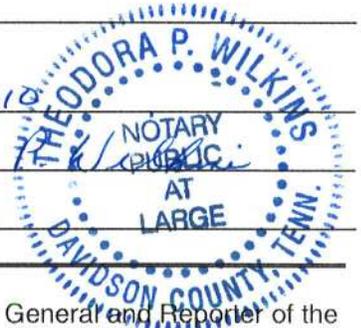
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: Dec. 7, 2010

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011



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

Robert E. Cooper, Jr.  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
2-8-11

Date

**Department of State Use Only**

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Filed with the Department of State on: 05/02/2011

Effective on: 07/31/2011

Tre Hargett  
 Tre Hargett  
 Secretary of State

## **Public Hearing Comments**

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

**PUBLIC HEARING COMMENTS**  
**RULEMAKING HEARING**  
**TENNESSEE DEPARTMENT OF HEALTH**  
**OCTOBER 25, 2010**

The rulemaking hearing for the Health Services Administration, Communicable and Environmental Disease Services was held October 25, 2010 at 10:00 a.m. in the Department of Health Conference Center's Poplar Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee.

No members of the public attended the rulemaking hearing. No oral comments were received at the rulemaking hearing and no written comments were received. The Department received only one comment from a school district in support of the rule change, subsequent to the hearing.

### **Regulatory Flexibility Addendum**

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

#### Regulatory Flexibility Analysis

- (1) The proposed rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The proposed rules exhibit clarity, conciseness, and lack of ambiguity.
- (3) The proposed rules are not written with special consideration for the flexible compliance and/or requirements because Department has, as its primary mission, the protection of the health, safety and welfare of Tennesseans. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The compliance requirements throughout the proposed rules are as “user-friendly” as possible while still allowing the Division to achieve its mandated mission in protecting the health of Tennesseans. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow services and providers to come into compliance with the proposed rules.
- (5) Compliance requirements are not consolidated or simplified for small businesses in the proposed rules for the protection of the health, safety and welfare of Tennesseans.
- (6) The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards for small businesses.
- (7) There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation. The costs of paper reporting will be decreased, but electronic record keeping will be sufficient to protect the health, safety and welfare of Tennesseans.

## Economic Impact Statement

1. **Name of Board, Committee or Council:** Bureau of Health Services Administration, Communicable and Environmental Diseases Section
2. **Rulemaking hearing date:** October 25, 2010
3. **Types of small businesses that will be directly affected by the proposed rules:**  
No change from the previous rule. All schools and school districts..
4. **Types of small businesses that will bear the cost of the proposed rules:**  
Please see the answer to question 3.
5. **Types of small businesses that will directly benefit from the proposed rules:**  
Please see the answer to question 3.
6. **Description of how small business will be adversely impacted by the proposed rules:**  
These rules should not adversely impact the affected parties. Instead, they should decrease the burden resulting from lost attendance at school.
7. **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:**  
There are no less burdensome alternatives to the proposed rule. The proposed rule lessens the burden currently in place.
8. **Comparison of the proposed rule with federal or state counterparts:**  
Federal: There are no federal school exclusion rules, however this rule change brings Tennessee in line with the recommendations of the U.S. Centers for Disease Control and Prevention..  
State: The update to Tennessee's rule is consistent with school exclusion rules in many other states.

## **Impact on Local Governments**

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

These rule amendments are not expected to have any impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This amendment seeks to eliminate unnecessary lost time from school for children who have infestations of pediculosis (head lice) or scabies and who have begun treatment. The U.S. Centers for Disease Control and Prevention is recommending that these children not be excluded from school. The current scientific consensus is that the burden of unnecessary school absences is far greater than any risk posed by these conditions. This amendment eliminates the school exclusion for those children, and refers to the CDC recommendations.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §68-1-103, 68-1-104 and the guidelines offered on the website of the U.S. Centers for Disease Control and Prevention at <http://www.cdc.gov/parasites/scabies/prevent.html> (scabies) and <http://www.cdc.gov/parasites/lice/head/schools.html> (head lice)

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All schools, parents and school children are affected by this rule change. While the Department received only one comment from a school district in support of the rule change and none opposed, the American Association of Pediatrics and the National Association of School Nurses have both advocated for the discontinuance of policies which exclude children from school pending completed treatment for head lice.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

No attorney general opinions nor judicial rulings directly relate to this rule

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Fiscal impact will be minimal.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John R. Dunn, DVM, PhD, Communicable and Environmental Disease Section, 1<sup>st</sup> Floor Cordell Hull Building, 425 5<sup>th</sup> Avenue North, Nashville TN 37243 615-741-7247

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John R. Dunn, DVM, PhD, Communicable and Environmental Disease Section, 1<sup>st</sup> Floor Cordell Hull Building, 425 5<sup>th</sup> Avenue North, Nashville TN 37243 615-741-7247  
Mary Kennedy, Deputy General Counsel, 220 Athens Way, Suite 210, Nashville TN 37243 615-253-4878

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

John R. Dunn, DVM, PhD, Communicable and Environmental Disease Section, 1<sup>st</sup> Floor Cordell Hull Building,

425 5<sup>th</sup> Avenue North, Nashville TN 37243 615-741-7247; John.Dunn@tn.gov  
Mary Kennedy, Deputy General Counsel, 220 Athens Way, Suite 210, Nashville TN 37243 615-253-4878;  
Mary.Kennedy@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None

(Rule 1200-14-01-.23, continued)

**Authority:** T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004.

#### 1200-14-01-.24 EXCLUSION FROM SCHOOL FOR SPECIAL DISEASES.

~~It shall be the duty of the school authorities for any public, private, or church-related school and day care or Head Start authorities to exclude from their facilities any child who is infected with or suspected of having the following diseases: measles, rubella, mumps, chickenpox, pediculosis, scabies, and other illnesses designated by the local health officer as requiring exclusion.~~

- (1) It shall be the duty of the school authorities for any public, private, or church-related school and day care or Head Start authorities to exclude from their facilities any child who is infected with or suspected of having the following diseases: measles, rubella, mumps, chickenpox and other illnesses designated by the local health officer as requiring exclusion.
- (2) With respect to an infestation of pediculosis or scabies, it shall be the duty of school authorities for any public, private, or church-related school and day care or Head Start authorities to follow the guidelines promulgated by the U. S. Centers for Disease Control and Prevention. At any time the Department receives notice that those guidelines have been modified, it shall promptly notify the Department of Education.

**Authority:** T.C.A. §§ 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004.

#### 1200-14-01-.25 LOCAL AUTHORITIES MAY MAKE ADDITIONAL REQUIREMENTS.

These regulations shall be considered the minimum requirements for the prevention and control of communicable diseases. Municipalities and local boards of health are authorized to make and enforce such additional ordinances, rules or regulations as they deem necessary and as herein set forth shall be enforced.

**Authority:** T.C.A. §§49-1769, 53-607, 53-621, 53-905, 53-1023 and 53-1109. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977.

#### 1200-14-01-.26 OBSTRUCTING LOCAL HEALTH OFFICERS OR DEPARTMENTAL REPRESENTATIVES.

No person shall interfere with or obstruct the entrance into any house or premises, or the inspection, examination, or interview of any occupant thereof or the examination of any relevant record, by the responsible health officer, his duly authorized agent or a representative of the Department in the proper discharge of his or her official duties under these Rules and 1200-14-04 et seq.

**Authority:** T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004.

#### 1200-14-01-.27 ENFORCEMENT.

It shall be the duty of all local health authorities to obey and enforce the provisions of these regulations. Whenever any local health authority willfully neglects, fails, or refuses to comply with the provisions of