

Department of Health  
Notice of Rulemaking Hearing  
Board of Medical Examiners  
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-204, and 63-6-224. 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 Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CST) on the 21st day of November, 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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 0880-2-.21 Office Based Surgery, is amended by adding the following language as new subparagraphs (9) (g), (9) h), (9) (i), (9) (j), (9) (k), (9) (l) and (9) (m), and is further amended by deleting part (11) (c) 1. in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (9) (g), (9) h), (9) (i), (9) (j), (9) (k), (9) (l), and (9) (m) and the new part (11) (c) 1. shall read

- (9) (g) Physicians are authorized to perform in their offices only the Level III surgical procedures that have all of the following characteristics: a duration of less than four (4) hours; generally results in blood loss of less than ten percent (10%) of estimated blood volume in a patient with normal hemoglobin; will not require major or prolonged intracranial, intrathoracic, abdominal or major joint replacement procedures (except laparoscopic procedures); will not directly involve major blood vessels, and are not generally emergent or life threatening in nature. In the case of multiple procedures, the combination of all planned procedures shall not exceed four (4) hours. In addition, Level III surgeries shall be limited to the following: [A list of Level III surgeries authorized in physician's offices shall be developed by the Board of Medical Examiners in response to public comments received during the rulemaking process.]
- (9) (h) Level III surgeries may occur only in physician offices that have received a site survey by the Department of Health in accordance with this provision. The board shall enter into a memorandum of understanding, contract or other written arrangement with the Department of Health pursuant to which the Department of Health will provide site surveys of physician's offices that propose to provide Level III surgeries. All rules and regulations governing ambulatory surgical treatment centers relative to infection control, life safety, patient rights, hazardous waste and equipment and supplies shall apply to physician offices where Level III surgeries are performed. In order to obtain a site survey in accordance with this provision,

the physician shall pay to the Board a fee in the same amount as the application fee payable to the Department of Health for an ambulatory surgical treatment center.

- (9) (i) Operating rooms where Level III surgeries occur and the recovery rooms for patients shall be used exclusively for surgery and recovery, respectively. Except for emergencies, the operating rooms and recovery rooms may be utilized only by physician employees of the clinic in which the rooms are located. Operating rooms and recovery rooms may not be shared with other clinics or other physicians.
- (9) (j) Prior to surgery, physicians performing Level III surgery shall inform the patient that the facility is not licensed by the State of Tennessee and shall explain the risks, benefits and alternatives. Prior to surgery, the physician shall obtain a written informed consent from the patient or patient's representative establishing consent to surgery being performed in the physician's office. The informed consent form shall include acknowledgement by the patient or patient's representative that he or she has been informed of the option to have the surgery performed in a licensed facility.
- (9) (k) In order for a physician's office to be qualified as a site for Level III surgery, all physicians who propose to perform such surgery in such facility must submit to the board on a form provided by the board the following: procedures expected to be performed, the specialty board certification or board eligibility of the physicians performing procedures, verification of medical malpractice coverage; and verification of hospital staff privileges. The form required by this subsection shall be updated each time the physician's license is renewed.
- (9) (l) Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule shall submit the form required in subparagraph (j) and remit payment for the site survey required in subparagraph (h) within sixty (60) days of the effective date of this amended rule. If such an office make a timely filing in accordance with this paragraph and otherwise complies with the provisions of this rule, then such office may continue to be a site for Level III surgeries pending completion of a survey confirming compliance with subparagraph (h). Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule that fail to make the filing described in this paragraph shall cease to be qualified as a site for Level III surgeries as of the sixtieth (60<sup>th</sup>) day after the effective date of this amended rule.
- (9) (m) The Board shall post on its web site a list including the names, locations and principal owners of physician offices that have qualified as sites for Level III surgeries. Information on the list shall be updated quarterly or more frequently.
- (11) (c) 1. For all Level III surgery procedures performed pursuant to these rules, the maximum planned duration of all surgical procedures combined must not exceed four (4) hours.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-204.

Rule 0880-5-.04 Qualifications for Limited Certification, is amended by deleting subparagraphs (1) (c) and (1) (d) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c) and (1) (d) shall read:

- (1) (c) Skull and Sinuses
- (1) (d) Spine

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.05 Educational Course, Approval and Curriculum for Limited Certification, is amended by deleting subparagraph (2) (b), subparagraph (2) (c), and parts (2) (d) 1., (2) (d) 2., (2) (d) 3. and (2) (d) 4. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b), subparagraph (2) (c), and parts (2) (d) 1., (2) (d) 2., (2) (d) 3. and (2) (d) 4. shall read:

- (2) (b) Specialty Areas - Defined as the study of radiography of a particular anatomical part including human structure and function, radiographic positioning and procedures, and evaluation of radiographs. Each separate specialty area course shall minimally consist of the following amount of classroom clock hours:
  - 1. Chest – ten (10) classroom clock hours;
  - 2. Extremities – forty (40) classroom clock hours;
  - 3. Skull and Sinuses – ten (10) classroom clock hours; and
  - 4. Spine – thirty (30) classroom clock hours.
  
- (2) (c) Clinical Training - Defined as “hands-on” observation and participation in the production of diagnostic radiographs. Clinical training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a fully-licensed and registered operator (A.R.R.T. technologist) with at least three (3) years experience when appropriate. This training shall minimally consist of the following amount of clinical clock hours for each specialty area in which certification is sought:
  - 1. Chest – thirty (30) clinical clock hours;
  - 2. Extremities – eighty (80) clinical clock hours;
  - 3. Skull and Sinuses – thirty (30) clinical clock hours; and
  - 4. Spine – eighty (80) clinical clock hours.
  
- (2) (d) 2. Extremities
  - (i) Upper Extremity – includes all routine views of the fingers up through the pectoral girdle.
  - (ii) Lower Extremity – includes all routine views of the toes up through the pelvis (and includes sunrise view of patella/knee).
  
- (2) (d) 3. Skull and Sinuses
  - (i) Skull – includes AP/PA, Townes and Lateral.
  - (ii) Sinuses – includes upright PA/Caldwell, Lateral, and Waters.
  
- (2) (d) 4. Spine
  - (i) Cervical – includes AP/PA, lateral, obliques, and open mouth odontoid.
  - (ii) Thoracic – includes AP/PA, lateral, and Swimmers.

(iii) Lumbar – includes AP/PA, lateral, spot lateral of L5-S1, and obliques.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.06 Examinations for Certification, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) Full Certification - A.R.R.T. certification will substitute for all examinations required by the Board and will be the basis for full certification, except for bone densitometry, unless the A.R.R.T. certification includes the bone densitometry specialty.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.07 Obtaining and Upgrading Full and Limited Certification, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Upon approval for issuance of certification, the Board shall issue a certificate which contains either the specific radiological limitations as reflected by the application materials received or full certification, as provided in Rule 0880-5-.06 (2) (b).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.09, Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the existing subparagraph (1) (b) as (1) (c):

- (1) (b) Two (2) of the required twenty (20) biennial continuing education hours must be pertaining to appropriate statutes, rules and regulations, and other subjects that would be directly related to compliance with, and/or penalties for non-compliance of the statutes, rules and regulations. This course must include content pertaining to the A.R.R.T.'s Standards of Ethics if the certificate holder is fully certified.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, 615-532-4397.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2006. (09-11-06)