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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.

Agency/Board/Commission:	Board of Nursing
Division:	
Contact Person:	E. Ashley Carter Deputy General Counsel
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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:

ADA Contact:	ADA Coordinator at the Division of Health Related Boards
Address:	227 French Landing, Suite 501 Nashville, TN 37243
Phone:	(615) 532-4397
Email:	

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

Address 1:	
Address 2:	227 French Landing, Heritage Place 37243
City:	Nashville, Tennessee
Zip:	37243
Hearing Date :	01/21/2010
Hearing Time:	9:30 a.m. <input checked="" type="checkbox"/> 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
1000-05	Medication aides certified
Rule Number	Rule Title
1000-05-.01	Purpose

1000-05-.02	Definition
1000-05-.03	Applications, Certification and Renewal
1000-05-.04	Retirement and Reinstatement
1000-05-.05	Fees
1000-05-.06	Civil Penalties
1000-05-.07	Training Programs
1000-05-.08	Peer Support Programs
1000-05-.09	Continuing Education
1000-05-.10	Supervision and Delegation
1000-05-.11	Standards of Practice

Chapter 1000-05
Medication aides certified

New Rules

1000-05-.01	Purpose.
1000-05-.02	Definitions.
1000-05-.03	Application, Certification and Renewal.
1000-05-.04	Reinstatement and Retirement.
1000-05-.05	Fees.
1000-05-.06	Civil Penalties.
1000-05-.07	Training Programs.
1000-05-.08	Peer Support Programs.
1000-05-.09	Continuing Education.
1000-05-.10	Supervision and Delegation.
1000-05-.11	Standards of Practice.

1000-05-.01 Purpose.

The rules in this chapter implement the licensure program for medication aides certified, T.C.A. § 63-7-127 et seq.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.02 Definitions.

In addition to the definitions contained in T.C.A. § 63-7-127(a), the following definitions are applicable to this chapter:

- (1) "Applicant" means a person filing an application for a certificate as a medication aide certified.
- (2) "As Needed Medication" means any drug that is not scheduled to be administered to a resident at a routine time but is given in response to a resident's complaint or expression of discomfort or other drug of a specified condition.
- (3) "Assisted Care Living Facility" shall have the same meaning as set forth in T.C.A. § 68-11-201(4).
- (4) "Board" means the Tennessee Board of Nursing.
- (5) "Clinical Practice Component" means a task or activity planned as part of a medication aide certified training program to provide medication aide certified students with the opportunity to administer medications in a nursing home or an assisted care living facility setting.
- (6) "Clock Hour or Contact Hour" means fifty (50) to sixty (60) minutes of qualifying or continuing education.
- (7) "Controlled Substances" shall have the same meaning as set forth in T.C.A. § 63-10-204(7).

- (8) "Delegation" means the transfer of responsibility, but not the accountability, for the administration of medication from the delegating registered nurse to a medication aide certified; the delegating registered nurse is to be on site and immediately available to the medication aide certified.
- (9) "Department" means the Tennessee Department of Health.
- (10) "Drug" shall have the same meaning as set forth in T.C.A. § 63-10-203(16).
- (11) For the purpose of this section, "Licensed Nurse" means "a licensed practical nurse, registered nurse, or advanced practice nurse licensed under Title 63."
- (12) "Medication Administration" means giving a drug to a resident to be orally ingested by the resident or topically applied to the resident's body.
- (13) "Medication Administration Record" means a written or electronic record of the medication ordered for and administered to a patient or resident of a nursing home or assisted care living facility.
- (14) "Medication Aide Certified" means an individual who holds a current, valid certificate as a medication aide certified issued by the Board and who administers medications under the general supervision of a registered nurse pursuant to T.C.A. § 63-7-127.
- (15) "Medication Aide Certified Training Program" means a formal program of study approved by the Board and required for certification as a medication aide certified.
- (16) "Nursing Home" shall have the same meaning as set forth in T.C.A. § 68-11-201(29)(A).
- (17) "Patient" or "Resident" means a person receiving the services of a medication aide certified in a nursing home or assisted care living facility.
- (18) "Peer Support Program" means a program that provides monitoring of rehabilitation services to health care professionals who may be impaired by substance abuse or a psychological condition.
- (19) "Person" is defined as an individual, natural person.
- (20) "Qualified Educational Institution" means an institution accredited by the Southern Association of Colleges and Schools (or equivalent regional accredited agency) or the Council on Occupational Education that currently or in the future operates as a fully approved Tennessee School of Registered or Practical Nursing.
- (21) "Supervision" means overseeing with authority, including the initial and ongoing direction, procedural guidance, and observation and evaluation of the medication aide certified by a delegating registered nurse onsite and immediately available.
- (22) When a medication aide certified is performing general nursing assistant tasks in a nursing home or assisted care living facility, general supervision may be conducted by a licensed practical nurse, registered nurse, or advanced practice nurse.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.03 Application, Certification and Renewal.

(1) Application.

- (a) Any person who seeks to be certified as a medication aide certified shall complete an application on a form prescribed by the Board. The training program shall submit the application for certification by examination to the Board office.
- (b) Any application submitted which lacks the required information or reflects a failure to meet any requirement for certification will be returned to the applicant with written notification of the information that is lacking or the reason(s) the application does not meet the requirements for certification and will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed ninety (90) days from the date of application.
- (c) Any application submitted may be withdrawn.
- (d) Application fees are not refundable.

(2) Certification.

- (a) Any person who desires to obtain a certification as a medication aide certified shall submit an application to the Board office along with the required information and application and certification fees.
- (b) Each applicant shall furnish evidence to the Board office with a completed application and applicable fees that the applicant:
 - (i) Is at least eighteen (18) years of age;
 - (ii) Has completed the twelfth (12th) grade or its equivalent or has successfully passed the test for and has received a general equivalency diploma;
 - (iii) Is a certified nurse aide and has practiced as a certified nurse aide in a nursing home or assisted living facility for a minimum of one (1) year, on a continuous, uninterrupted, full-time basis at no more than two (2) facilities, at the time the applicant submits an application for certification as a medication aide certified under this section;
 - (iv) Has successfully completed a course of instruction provided by a training program approved by the Board under rule 1000-05-.07 and in compliance with T.C.A. § 63-7-127(1)(2);
 - (v) Has passed a medication aide certification examination approved by the Board; and

- (vi) Has submitted the results of the applicant's criminal background check which either the applicant or a vendor identified by the Board, will submit to the Board office;
 - (vii) Does not have an encumbrance on any professional license or certificate.
- (c) Each Applicant must take the approved medication aide certified examination.
- (i) A test taker applicant must make application for certification by examination within thirty (30) days of training program completion;
 - (ii) The applicant must take the examination within ninety (90) days of being made eligible by the board;
 - (iii) A second time test taker must retake the examination and complete the certification process no later than one (1) year after the initial application; and
 - (iv) An applicant not successful after two (2) examination attempts must repeat the training program and reapply.
- (3) Renewal.
- (a) A medication aide certification is valid for two (2) years from the date of its issuance and shall become invalid on such date unless renewed, unless earlier suspended or revoked.
 - (b) A medication aide certified may renew a current, valid certification by submitting an application form approved by the Board, the required renewal fee and regulatory fee, attestation of having completed six (6) contact hours each year of Board-approved continuing education prior to the expiration date of the license.
 - (c) A fee submitted by mail to the Board office for the purposes of renewal will be deemed to have been submitted on the date received.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.04 Reinstatement.

- (1) Any person seeking renewal of a certification after the expiration date of the certification is required to reapply for certification, fulfill all of the requirements of initial certification, show proof of having completed all past due continuing education, and may be required to submit proof of additional education or testing to show continued competency.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.05

Fees.

- (1) Application and Initial Certification Fee by Examination..... \$150.00
- (2) The applicant shall pay a medication aide certification examination fee set by the test service and paid directly to the entity designated by the State to administer the medication aide certification examination.
- (3) Renewal Fee..... \$125.00
- (4) Replacement/Duplicate Certificate Fee.....\$25.00
- (5) State Regulatory Fee..... \$10.00
- (6) Training Program Initial Application Fee to offset the cost of two or more survey visits to evaluate the program for board review, consultation by a registered nurse, preparation of reports and other responsibilities as the board may require.....\$2500.00
- (7) Training Program Annual Survey Fee to offset the cost of survey visits, compilation of annual reports and statistics and other duties as required by the Board of Nursing.....\$1500.00
- (8) Peer Assistance Program Fee to offset the added cost of adding medication aides certified to contract for professional assistance.....\$15.00
- (9) Name Change Fee.....\$25.00
- (10) Reinstatement Fee.....\$100.00

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.06 Civil Penalties

- (1) Schedule of Civil Penalties
 - (a) 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 violation of Tenn. Code Ann. § 63-7-127 or the regulations pursuant thereto, to such an extent that there is, or likely to be, an imminent, substantial threat to health, safety and welfare of an individual patient or the public. For the purpose of this section, practicing as a medication aide certified without a certification from the Board is one of the violations of the statute for which a Type A Civil Penalty is assessable.
 - (b) A Type B 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 violation of Tenn. Code Ann. § 63-7-127 or the regulations pursuant thereto in such manner as to impact directly the care of patients of the public.

- (c) A Type C Civil Penalty may be imposed whenever the Board finds a person who is required to be certified, permitted or authorized by the Board, guilty of a violation of Tenn. Code Ann. § 63-7-127 or the 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.
- (2) Amount of Civil Penalties
- (a) A Type A Civil Penalty may be assessed in an amount of not less than \$500 or more than \$1,000.
 - (b) A Type B Civil Penalty may be assessed in an amount of not less than \$100 or more than \$750.
 - (c) A Type C Civil Penalty may be assessed in an amount of not less than \$50 or more than \$500.
- (3) In assessing the Civil Penalties pursuant to these rules the Board may consider the following factors:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of non-compliance; and,
 - (e) The interest of the public; and
 - (f) Willfulness of the violation.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.07 Training Programs.

- (1) Any qualified educational institution seeking to conduct a medication aide certified training program shall make application with a letter of intent and submit to the Board any documents, statement and forms as the Board may require and pay a training program application fee and annual fee. The complete application shall be submitted to the Board no later than forty-five (45) days prior to a scheduled Board of Nursing meeting. A representative of the Board shall conduct a site visit to survey the educational and clinical facilities prior to the program presenting a letter of intent to the Board. At a minimum, the institution seeking approval to conduct a training program shall provide the following in the letter of intent:
- (a) Name and address of qualified educational institution;
 - (b) Contact person and his or her address, telephone number, fax number and email address;

- (c) The name and address of principle clinical facilities;
 - (d) The location(s) of the courses or programs;
 - (e) Letters of support;
 - (f) Documentation of need for the program; and
 - (g) Demonstration of the financial ability to support the program.
- (2) After the Board approves the letter of intent and prior to the acceptance of students, the institution shall submit documentation no later than forty-five (45) days prior to a Scheduled Board meeting in order to obtain initial approval:
- (a) The number and type of education clock hours requested for each course;
 - (b) The name(s), license number(s), educational credentials and teaching and nursing experience of the director and all instructors;
 - (c) The program catalog;
 - (d) The topic outlines, which list the summarized topics, covered in each course and upon request, a copy of any course materials;
 - (e) A summarization of any changes to the curriculum, should the prior approved program be substantially changed. A summarization of any changes should be submitted to the Board office at least forty-five (45) days prior to a scheduled Board meeting; and
 - (f) The submission of any other such information that the Board may deem necessary.
- (3) The qualified educational institution providing the training program shall:
- (a) Provide sufficient numbers of qualified faculty to implement the curriculum;
 - (b) Provide sufficient numbers of qualified faculty in a clinical setting to assure patient safety and meet student learning needs;
 - (c) Provide financial support and resources adequate to teach the students the curriculum established in T.C.A. §63-7-127, including, but not limited to classrooms, laboratories, equipment, supplies, and qualified administrative, instructional, and support personnel and services;
 - (d) Employ or contract with a registered nurse with an unencumbered Tennessee license who may teach a course or courses within his or her scope of practice and areas of competency;
 - (e) Ensure that the training program instructors have an unencumbered license to engage in the practice of nursing as a registered nurse with at least two (2) years of nursing experience including at least six months

with medication administration within the last five (5) years in a nursing home, assisted care living facility, or gerontological nursing experience.

- (f) Ensure that for the didactic hours, a ratio of no more than six (6) students for one (1) program instructor must be maintained; however, the ratio while engaged in medication administration shall be one (1) student to one (1) program instructor;
 - (g) Inform each student of the requirements for certification;
 - (h) Provide a written program grading system policy which reflects a numerical grading system or scaled grading system. Students must make a passing grade in both didactic and clinical courses;
 - (i) Provide a written protocol or policy on the mechanism to evaluate a student's performance. At least one (1) written evaluation is required within the first half of the program;
 - (j) Provide a written policy on the dismissal of students;
 - (k) Provide a copy of a student's transcript to the student upon the student's written request and upon the student's completion of or withdrawal from the program; and
 - (l) Engage in program evaluation that includes, but is not limited to, obtaining feedback from students, instructors, and employers of individuals who have successfully completed the medication aide certified training program.
- (4) The program shall not advertise that it is approved by the Board prior to or after a loss of Board approval.
 - (5) The program shall retain records of attendees of each course and the Board may at any time examine the records.
 - (6) The program shall ensure a first time test taker examination pass rate minimum of eighty-five per cent (85%). The Board will evaluate the program's examination pass rate on a quarterly and annual basis.
 - (7) The training program shall file an annual report with the Board office that shall contain, at a minimum, the following information:
 - (a) The number of students currently enrolled;
 - (b) The total enrollment for the year;
 - (c) The attrition and retention rate of students and faculty;
 - (d) The employment placement data;
 - (e) The number of students graduated;
 - (f) The number of students dismissed or withdrawn for the year;
 - (g) The number of students taking the certification examination; and

- (h) The percentage of students taking the test for the first (1st) time and passing the certification examination.
- (8) The program shall obtain approval by the Board on an annual basis thirty (30) days before the program commences each year.
- (9) A representative of the Board shall inspect the institution that provides the training program on an annual basis or as directed by the Board or Board's representative and shall submit a written report to the Board. If any deficiencies are noted, the Board may grant the institution a conditional approval of the training program until all deficiencies are corrected. The institution shall have thirty (30) days from the date the conditional approval is granted by the Board to correct the deficiencies. Upon correction of the deficiencies, the Board may grant full approval.
- (10) If deficiencies are not corrected within the Board's prescribed time frame, the program will be removed from approved status and must reapply for approval. Notice will be sent to the program upon removal of approved status.
- (11) In addition to the minimum standard curriculum provided in T.C.A. § 63-7-127(i)(2), the qualified educational institution shall provide courses relative to the following topics:
 - (a) Role of the medication aide certified;
 - (b) Federal and state laws and rules relative to nursing homes and assisted care living facilities relative to medication aides certified;
 - (c) Confidentiality of a resident's protected health information;
 - (d) Drug mathematics, weights, and measures;
 - (e) Drug side effects;
 - (f) Drug administration requirements;
 - (g) Drug packaging systems;
 - (h) Drug storage, destruction, or return of medication;
 - (i) Documentation of medication administration; and
 - (j) Drug interactions.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-.05-.08 Peer Support Programs.

- (1) Peer support programs shall provide the following services to a certified medication aide certified: referral for assessment of dependency and addiction, referral to treatment centers and programs, aftercare treatment, counseling, and referral for psychological issues.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.09 Continuing Education.

- (1) As a prerequisite to renewal, all certificate holders shall complete the following continuing education requirements:
 - (a) Complete any and all continuing education or continued competency requirements, or both, necessary to maintain nurse aide certification under Tenn. Code Ann. Title 68, Chapter 11, Part 2 of Tennessee Code Annotated, and the rules promulgated pursuant thereto; and
 - (b) A total of six (6) contact hours per year of continuing education; five (5) of which shall be in pharmacology provided by a licensed pharmacist or registered nurse and one (1) of which shall be relative to medication administration consistent with the functions of a medication aide certified.
- (2) Each medication aide certified shall attest to the timely attendance and completion of the required continuing education hours on the biennial certificate renewal form.
- (3) Each medication aide certified shall retain independent documentation of attendance and completion of all continuing education courses for a period of two (2) years from the date of attendance. This documentation shall be produced for inspection and verification, if requested in writing by the Board.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

1000-05-.10 Supervision and Delegation.

- (1) A registered nurse who delegates medication administration to a medication aide certified, shall supervise the medication aide certified by:
 - (a) Reviewing the medication delivery process to assure that there have been no errors in the stocking or preparing the medications;
 - (b) Accepting, transcribing, and reviewing resident medication orders;
 - (c) Monitoring residents to whom medications are administered for side effects or changes in health status;
 - (d) Reviewing documentation completed by the medication aide certified, including, but not limited to the medication administration record;
 - (e) Providing on-site supervision and availability for immediate direction while in a nursing home setting;
 - (f) Providing on-site supervision or immediate and continuous availability through telecommunication while in an assisted care living facility setting; and

- (g) Delegating the administration of medication for each resident in writing to the medication aide certified.
- (2) A registered nurse who provides care to nursing home or assisted care living facility residents may delegate the task of medication administration to a medication aide certified in accordance with Tenn. Code Ann. § 63-7-1 and these rules.
 - (3) Prior to delegating the task of medication administration to a medication aide certified, a registered nurse shall evaluate the following:
 - (a) The patient and the medication needs of the patient, including:
 - 1. The patient's mental and physical stability;
 - 2. The medication to be administered;
 - 3. The time frame during which the medication is to be administered;
 - 4. The route or method by which the medication is to be administered; and
 - (b) The ability of the medication aide certified to safely administer the medication being delegated.
 - (4) When delegating the task of medication administration to a medication aide certified, the registered nurse shall communicate, in writing, the following to the medication aide certified:
 - (a) The patient to whom the medication aide certified shall administer medications;
 - (b) The medications the medication aide certified shall administer;
 - (c) The time frames during which the medications are to be administered; and
 - (d) Any special instructions concerning the administration of medications to specific patients.
 - (5) A registered nurse who is on site at the nursing home or assisted care living facility may delegate the administration of as-needed medications to a medication aide certified provided all of the following are satisfied:
 - (a) The registered nurse completes a nursing assessment of the resident to whom the as-needed medication is to be administered immediately prior to the medication being administered; and
 - (b) The registered nurse determines that the as-needed medication may be safely administered by the medication aide certified.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

- 1000-05-.11 Standards of Practice.
- (1) A medication aide certified shall demonstrate competence and responsibility in the task of medication administration.
 - (2) A medication aide certified shall ensure and promote a safe environment for nursing home or assisted care living facility residents.
 - (3) A medication aide certified shall accurately document in the resident's record the following information immediately after the administration of a medication to a resident:
 - (a) The name of the medication and the dosage administered;
 - (b) The route of the administration;
 - (c) The date and time of the administration;
 - (d) The name and credentials of the medication aide certified who administered the medication;
 - (e) The name of the delegating nurse who delegated the administration of the medication;
 - (f) The resident's refusal or inability to ingest the medication or comply with the administration of the medication; and
 - (g) Any complaints by the resident about the medication administration or medication administered.
 - (4) A medication aide certified shall report the following to the delegating nurse or the delegating nurse's supervisor in a timely manner:
 - (a) The resident's request for an as-needed medication;
 - (b) The resident's refusal or inability to ingest the medication or comply with the administration of the medication;
 - (c) Any deviation from the delegated medication administration; and
 - (d) Any observations or information about the resident's condition that causes concern.
 - (5) A medication aide certified shall store drugs in accordance with the pharmacist's instructions.
 - (6) A medication aide certified shall remove drugs only from a properly labeled container or packaging that has been dispensed by a licensed pharmacist that contains the drug name; dosage; strength; name of the resident to whom it is to be dispensed; and drug expiration date.
 - (7) A medication aide certified shall complete all necessary tasks to ensure safe medication administration to a resident, including, but not limited to the following:

- (a) Verifying the identify of the resident to whom the medication is to be administered;
 - (b) Ensuring that medication administration for the resident has been delegated and documented by the delegating registered nurse prior to the administration of the medication;
 - (c) Ensuring that the medication is being administered to the resident in accordance with the delegation and prescriber instructions;
 - (d) Ensuring that the correct medication in the correct dosage is administered to the resident;
 - (e) Witnessing the resident swallowing a drug that is to be ingested orally; and
 - (f) Documenting and reporting a medication error to the delegating registered nurse who is on-site at the nursing home or assisted care living facility.
- (8) A medication aide certified shall maintain the confidentiality of resident protected health information obtained in the course of the medication aide certified's duties and responsibilities.
- (9) A medication aide certified shall not delegate the task of medication administration to any other person.
- (10) A medication aide certified shall not falsify any resident record or any other document prepared or utilized in the course of, or in conjunction with, the administration of medication.
- (11) A certified medication aide certified shall maintain professional boundaries with each resident.

Authority: T.C.A. § 63-7-127 [effective July 1, 2009]; and Chapter 403 of the Public Acts of 2009, § 2.

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: 12/2/09

Signature: E. Ashley Carter

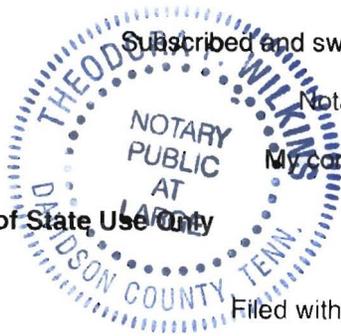
Name of Officer: E. Ashley Carter
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 12/2/09

Notary Public Signature: Theodore P. Welton

My commission expires on: 11/7/2011



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Filed with the Department of State on: 12/2/09

Tre Hargett by Mon Sant, POA

Tre Hargett
Secretary of State

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