

**RULES
OF
BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS**

**CHAPTER 1200-30-01
RULES GOVERNING LICENSURE OF ALCOHOL AND DRUG ABUSE COUNSELORS**

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1200-30-01-.01 DEFINITIONS.

- (1) Advertising. Commercial communication which includes, but is not limited to, business solicitations with or without limiting qualifications, by a card, sign or device issued to a person; a sign or marking in or on any building; or, in any newspaper, magazine, directory or other printed material. Advertising also includes business solicitations communicated by an individual, radio, video or television broadcasting or any other means designed to secure public attention.
- (2) Applicant. Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.
- (3) Board. The Board of Alcohol and Drug Abuse Counselors established by T.C.A. §§ 68-24-604, et seq.
- (4) Commissioner. The Commissioner of the Department of Health or his/her designee.
- (5) Contact hour. Sixty (60) minutes in a required activity, including licensure experience and continuing education.
- (6) Continuing education. Education beyond the basic initial licensure educational requirement which is related to the practice of alcohol and drug abuse counseling.
- (7) Department. The Tennessee Department of Health, Division of Health Related Boards.
- (8) Fee. Money, gifts, services or anything of value offered or received as compensation in return for rendering services; also, the required fee(s) pursuant to these rules.
- (9) Good moral character. The quality of being well regarded in personal behavior and professional ethics.
- (10) He/she, him/her. When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.
- (11) Hold oneself out. To represent one's self to the public as having a particular status by means of stating on signs, mailboxes, address plates, letterhead, announcements, business cards or other instruments of professional identification.

(Rule 1200-30-01-.01, continued)

- (12) License. The document issued to an applicant who successfully completes the licensure process.
- (13) Licensed Alcohol and Drug Abuse Counselor or "licensee". Any person who has met the qualifications for licensed Alcohol and Drug Abuse Counselor and holds a current, unexpired, unsuspended or unrevoked license which has been lawfully issued by the Board.
- (14) Licensure training supervision. On-going, direct clinical review for the purpose of training or teaching, by a qualified supervisor who supervises the performance of a person's interaction with a client and provides regular documented face-to-face consultation, guidance and instructions with respect to the clinical skills and competencies of the person supervised. Supervision may include, without being limited to, the review of case presentations, audio tapes, video tapes and direct observation.
- (15) NAADAC. The Association for Addiction Professionals.
- (16) Qualified Supervisor. A person who provides licensure training supervision for Alcohol and Drug Abuse Counselors. Such a person must be currently licensed in good standing as an Alcohol and Drug Abuse Counselor, have held said license for at least five (5) years and either have at least two (2) years experience supervising Alcohol and Drug Abuse Counselors or have completed at least thirty-six (36) contact hours of supervised supervisory work.
- (17) Regional Training Coordinator. One of seven regional institutional/agency providers of alcohol and drug abuse treatment services with whom the Department contracts to deliver training to other providers of alcohol and drug abuse treatment services. Each of these providers designates one of their professional staff members to be the individual Regional Training Coordinator. These Coordinators can be identified by contacting the Bureau of Alcohol and Drug Abuse Services Training Section.
- (18) Retirement. Voluntary deactivation of the Board issued license.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-604, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; effective November 2, 2002. Amendments filed November 2, 2005; effective January 16, 2006.

1200-30-01-.02 SCOPE OF PRACTICE.

- (1) Counseling for alcohol and other drugs of abuse includes: the evaluation and treatment of problems, misperceptions and misconceptions of persons who abuse mood-altering chemicals within the context of individual, group, familial and significant other relationships, and of those persons who have had their lives significantly impacted by another person's abuse of alcohol or other drugs. Counseling for alcohol and other drugs of abuse includes the provision of the Primary Functions pursuant to paragraph (4) which may be performed by licensees.
- (2) A Licensed Alcohol and Drug Abuse Counselor may evaluate and treat persons who have been significantly affected by compulsive gambling disorder as long as the licensee has completed no less than sixty (60) additional hours of specialized education related to compulsive gambling disorder in the form of formal classroom hours, annual continuing education hours or a combination thereof. The licensee's clinically supervised counseling experience must have included contact with no less than ten (10) patients impacted by a compulsive gambling disorder under the supervision of a supervisor who had obtained no

(Rule 1200-30-01-.02, continued)

less than sixty (60) formal classroom hours of instruction related to compulsive gambling disorder.

- (3) Nothing in this chapter shall be construed as permitting any person licensed as an Alcohol and Drug Abuse Counselor to perform psychological testing intended to measure and/or diagnose mental illness. Consistent with each counselor's formal education and training, licensees may administer and utilize appropriate assessment instruments which identify elements of perceptual inability to recognize empirical facts, problems of appropriately displaying emotions and inappropriate responses to the environment of individuals, couples and families as part of the alcohol and other drugs of abuse therapy process or in the development of a treatment plan in the context of chemical abuse systems.
- (4) Nothing in this chapter shall be construed as permitting an individual licensed as an Alcohol and Drug Abuse Counselor to administer, dispense, or prescribe drugs or in any manner engage in the practice of medicine as defined by Tennessee law.
- (5) Primary Functions of the licensed Alcohol and Drug Abuse Counselor.
 - (a) Screening. The process by which a client is determined to be eligible for admission to a particular program.
 - (b) Intake. The administrative and initial assessment procedures for admission to a program.
 - (c) Orientation - Describing to the client the general nature and goals of the program including rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program.
 - (d) Counseling (individual, group and significant others). The utilization of special skills to assist individuals, families or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, considerations of alternative solutions and decision making.
 - (e) Case management. Activities which bring services, agencies, resources or individuals together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contacts.
 - (f) Crisis intervention. Those services which respond to an alcohol and/or drug abuser's needs during acute emotional and/or physical distress.
 - (g) Assessment. Those procedures by which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems and needs for the development of the treatment plan.
 - (h) Treatment planning. The process by which the counselor and the client identify and rank problems needing resolution, establish agreed upon immediate and long term goals, and decide on a treatment process and the resources to be utilized.
 - (i) Client education. Providing information to individuals and groups concerning alcohol and other drugs of abuse and the services and resources available.
 - (j) Referral. Identifying the needs of the client that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available.

(Rule 1200-30-01-.02, continued)

- (k) Reports and recordkeeping. Documenting the client's progress in achieving the client's goals.
- (l) Consultation with other professionals in regard to client treatment/services. Communicating with other professionals to assure comprehensive, quality care for the client.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-24-605 through 68-24-609. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 5, 2011; effective November 3, 2011.

1200-30-01-.03 NECESSITY OF LICENSURE.

- (1) Only persons who are licensed by the Board may represent themselves as licensed Alcohol and Drug Abuse Counselors or hold themselves out to the public as being licensed by means of using a title on signs, mailboxes, address plates, letterheads, announcements, telephone listings, business cards, or other instruments of professional identification.
- (2) No person shall hold himself out to the public by a title or description of services incorporating the words licensed Alcohol and Drug Abuse Counselor unless he is licensed by the Board. Nothing in this rule shall prohibit a person from stating or using the educational degrees which he has obtained.
- (3) The provisions of this chapter do not apply to a person who is preparing for the practice of alcohol and drug abuse counseling under a qualified supervisor in a training institution or facility or supervisory arrangement pursuant to these rules and such person is designated by such titles as "alcohol and drug abuse counseling intern", "alcohol and drug abuse counseling trainee" or other designations clearly indicating a training status.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000.

1200-30-01-.04 QUALIFICATIONS FOR LICENSURE.

- (1) Licensure by examination. Prior to submitting an application for licensure, each of the following minimum qualifications must be met:
 - (a) The applicant must have attained twenty-one (21) years of age.
 - (b) The applicant must be highly regarded as possessing good moral character and professional ethics, as specified in rule 1200-30-01-.13.
 - (c) Education. The education requirement must be completed prior to the date of application.
 - 1. A high school diploma or a G.E.D. certificate, a certified or notarized copy of which is to be included with the application.
 - 2. Applicants must have at least two hundred and seventy (270) contact hours of formal classroom training in chemical dependency, with a minimum number of ten (10) contact hours documented on each Primary Function pursuant to rules 1200-30-01-.02(4) and .05(1)(a)8. The two hundred and seventy (270) contact hours may be acquired through a single training program giving the required

(Rule 1200-30-01-.04, continued)

number of hours or through a combination of short-term classroom training programs. There is no time limit in which education is to have been gained.

3. Applicants must furnish documentation of six (6) contact hours of education in ethics. This six (6) hour requirement may be part of the two hundred and seventy (270) contact hours of education required for licensure.
4. Applicants seeking to evaluate and treat persons who have been significantly affected by compulsive gambling disorder under Rule 1200-30-01-.02(2) shall have no less than sixty (60) additional hours of specialized education relating to compulsive gambling disorder. Such education shall be in the form of formal classroom hours, annual continuing education hours, or a combination of such hours.

(d) Experience.

1. Applicants shall furnish documentation of six thousand (6,000) clinically supervised counseling experience contact hours, during which all twelve (12) alcohol and drug abuse counseling Primary Functions have been performed over a time period of a minimum of three (3) years.
2. The six thousand (6,000) clinically supervised alcohol and drug abuse counseling experience contact hours, during which all twelve (12) Primary Functions have been performed over a time period of a minimum of three (3) years, may be paid or "volunteer" (unpaid), or a combination thereof.
3. In order for "volunteer" (unpaid), clinically supervised counseling experience to be given credit, the "volunteer" experience must have been accrued in a facility or agency where the institution or agency head authorized the volunteer program, specifically appointed/designated in writing the person as a participant in that volunteer program, and where the services and duties were performed and supervised pursuant to written guidelines, i.e., a "job description".
4. Applicants seeking to evaluate and treat persons who have been significantly affected by compulsive gambling disorder under Rule 1200-30-01-.02(2) shall provide evidence that a portion of the clinically supervised counseling experience included contact with no less than ten (10) patients impacted by a compulsive gambling disorder.

(e) An applicant shall successfully complete the examinations as required in Rule 1200-30-01-.08. The applicant shall also provide to the Board an authorization for release of examination scores along with his/her application.

(2) Licensure by reciprocity. Individuals seeking licensure by reciprocity must meet the following qualifications:

- (a) The applicant must have attained twenty-one (21) years of age.
- (b) The applicant must be highly regarded as possessing good moral character and professional ethics, as specified in rule 1200-30-01-.13.
- (c) The applicant must hold a current license or equivalent from another state. The other state's standards for licensure must be comparable to or exceed the requirements for licensure in Tennessee.

(Rule 1200-30-01-.04, continued)

- (d) An applicant shall successfully complete the jurisprudence examination as required in Rule 1200-30-01-.08.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, 68-24-606 and 68-24-608. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed June 15, 2004; effective August 29, 2004. Amendments filed August 5, 2011; effective November 3, 2011.

1200-30-01-.05 LICENSURE PROCESS.

- (1) To become licensed as an Alcohol and Drug Abuse Counselor in Tennessee an applicant must comply with the following procedures and requirements:
- (a) Licensure by examination.
1. An application packet shall be requested from the Department.
 2. Applications will be accepted by the Board administrator throughout the year. Supporting documents required by the application instructions and these rules must be received by the Board administrator within sixty (60) days of receipt of the application or the file will be closed and to resume the licensure process a new application must be filed. Application files which are completed on or before the thirtieth (30th) day prior to a Board meeting will ordinarily be processed at that meeting.
 3. An applicant shall respond truthfully and completely to every question or request for information contained in the application form. The applicant shall submit the application along with all required documentation and fees to the Board. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
 4. At the time the application is submitted, an applicant shall pay the nonrefundable application fee as provided in these rules.
 5. An applicant shall submit a certified copy of his birth certificate which indicates that the applicant is at least twenty-one (21) years of age at the time of application.
 6. An applicant shall attach to his application a signed passport style photograph taken within the preceding twelve (12) months. The back of the photograph is to be signed by the applicant.
 7. An applicant shall submit evidence of good moral character and professional ethics. Such evidence shall include two (2) recent (dated within the preceding twelve (12) months), original, signed letters from mental health professionals, one of which must be a licensed Alcohol and Drug Abuse Counselor in good standing, attesting to the applicant's personal character and professional ethics and typed on the signator's letterhead. The applicant shall also submit a signed and notarized affidavit stating the applicant is in compliance with alcohol and drug abuse counselor ethical standards and these rules.
 8. Applicants shall submit verification of having completed a minimum of three (3) years clinically supervised substance abuse counseling experience (6,000

(Rule 1200-30-01-.05, continued)

- contact hours) during which all twelve (12) Primary Functions have been performed. This experience may have been acquired anytime prior to the submission of the application. The Board may ask for additional documentation to substantiate this required experience. Actual time spent in a recognized counselor internship or counselor trainee program may be substituted for up to one (1) of the three (3) years experience.
9. An applicant shall submit a notarized photocopy of his high school diploma or GED. If the applicant indicates holding a college degree, the applicant must request that a transcript from his degree granting institution be submitted directly from the school to the Board. The institution granting the degree must have been accredited at the time the degree was granted. The transcript must show that the degree has been conferred and carry the official seal of the institution and reference the name under which the applicant has applied for licensure.
 10. An applicant shall complete and submit the application worksheet for the contact hours of classroom training and/or the required clinically supervised practice experience, along with proof of attendance.
 11. An applicant shall successfully complete the examinations as required by Rule 1200-30-01-.08.
- (b) Licensure by reciprocity. The Board may issue a license to any individual who holds a current license in good standing or its equivalent from another state, upon the determination that the standards for licensure in the other state are comparable to or exceed the current requirements for licensure in Tennessee.
1. An application packet shall be requested from the Department.
 2. Applications will be accepted throughout the year. Supporting documents required by the application instructions and these rules must be received by the Board administrator within sixty (60) days of receipt of the application or the file will be closed and a new application must be filed to resume the licensure process. Application files which are completed on or before the thirtieth (30th) day prior to a Board meeting will ordinarily be processed at that meeting.
 3. An applicant shall respond truthfully and completely to every question or request for information contained in the application form. The applicant shall submit the application along with all required documentation and fees to the Board. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
 4. At the time the application is submitted, an applicant shall pay the nonrefundable application fee as provided in these rules.
 5. An applicant shall submit a certified copy of his birth certificate which indicates that the applicant is at least twenty-one (21) years of age at the time of application.
 6. An applicant shall attach to his application a signed passport style photograph taken within the preceding twelve (12) months. The back of the photograph is to be signed by the applicant.

(Rule 1200-30-01-.05, continued)

7. An applicant shall submit evidence of good moral character and professional ethics. Such evidence shall include two (2) recent (dated within the preceding twelve (12) months), original, signed letters from mental health professionals, one of which must be a licensed Alcohol and Drug Abuse Counselor in good standing, attesting to the applicant's personal character and professional ethics and typed on the signator's letterhead. The applicant shall also submit a signed and notarized affidavit stating that the applicant is in compliance with alcohol and drug abuse counselor ethical standards and these rules.
 8. An applicant shall submit a copy of his original licensure or its equivalent with the license number from the original issuing state in effect at the time the original was issued.
 9. An applicant must submit a copy of his most recent renewal certificate or its equivalent from the current issuing state with the number and expiration date.
 10. The applicant shall provide the Board with a copy of current licensing statutes and rules from all states where the applicant is currently licensed.
 11. The applicant shall direct the appropriate certification/licensing agency in his state to send an official statement which indicates that such certificate/license is in effect and in good standing and under what provision such certificate was issued (e.g., grandfathering, examination, reciprocity, endorsement, etc.).
 12. An applicant shall successfully complete the jurisprudence examination as required in Rule 1200-30-01-.08.
- (2) Each applicant shall disclose the circumstances surrounding any of the following:
- (a) Conviction of any criminal law violation of any country or state, except minor traffic violations;
 - (b) The denial of licensure by any other state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3), or the professional discipline of the applicant in any state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3);
 - (c) Loss or restriction of licensure in any state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3); and
 - (d) Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action recognized under that country's or state's statutory, common, or case law.
- (3) Each applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (4) All documents required to be submitted that were not issued or produced in English shall be translated into English and such translation shall be certified, along with the original document, as to authenticity by the issuing source.

(Rule 1200-30-01-.05, continued)

- (5) Application procedures shall be governed by Rule 1200-30-01-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-01-.15.
- (6) The burden is on the applicant to prove by a preponderance of the evidence that his credentials were issued by a state whose standards for licensure are comparable to or exceed the requirements for licensure in Tennessee. This determination shall be made by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed July 3, 2007; effective September 16, 2007. Amendment filed November 26, 2008; effective February 9, 2009.

1200-30-01-.06 FEES.

- (1) The fees authorized by statute are established by the Board as follows:
 - (a) Application Fee. A nonrefundable fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed. The application fee shall accompany a submitted application, as set out in these rules.
 - (b) Endorsement/Verification Fee. A nonrefundable fee for each certification of legal, documented, written verification of an individual's record.
 - (c) Examination Fee. A nonrefundable fee to be paid each time an individual requests to sit for an oral examination.
 - (d) Late Renewal Fee. A nonrefundable fee to be paid when an individual fails to timely renew a license.
 - (e) License Fee. A nonrefundable fee to be paid prior to the issuance of the license.
 - (f) Reinstatement Fee. A nonrefundable fee to be paid by all individuals each time a reinstatement application is filed.
 - (g) Renewal Fee. A nonrefundable fee to be paid biennially by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.
 - (h) Replacement License Fee. A nonrefundable fee to be paid when an individual requests a replacement for a lost or destroyed license.
 - (i) State Regulatory Fee. A nonrefundable fee to be paid by all licensees upon application and biennially upon renewal.
- (2) Except for the renewal fees processed online via the Internet, all fees established by paragraph (3) of this rule must be submitted to the Board by certified or personal check or postal money order. Such checks or money orders are to be made payable to the Board of Alcohol and Drug Abuse Counselors.
- (3) Fee Schedule.

Type	Amount
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(Rule 1200-30-01-.06, continued)

(a)	Application Fee	\$250.00
(b)	Endorsement/Verification Fee	\$ 30.00
(c)	Examination - Oral	\$ 75.00
(d)	Late Renewal Fee	\$ 90.00
(e)	License Fee	\$ 50.00
(f)	Reinstatement Fee	\$100.00
(g)	Renewal (Biennial) Fee	\$325.00
(h)	Replacement License Fee	\$ 35.00
(i)	State Regulatory Fee	\$ 10.00

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; November 2, 2002. Amendment filed September 17, 2004; effective December 1, 2004. Amendment filed November 26, 2008; effective February 9, 2009.

1200-30-01-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEW.

- (1) Initial review of each application to determine whether or not the application file is complete may be delegated to the Board's administrator, provided that final approval of the application is ratified by the Board. In no event may an application be finally approved or denied without ratification by the Board.
- (2) If an application is incomplete when received by the Board or the reviewing member determines additional information is required from an applicant before an initial determination can be made, the Board shall notify the applicant of the information required. The applicant shall cause the requested information to be received by the Board on or before the sixtieth (60th) day after receipt of the notification.
 - (a) Such notification shall be sent by certified mail return receipt requested.
 - (b) If the requested information is not timely received, the application shall be closed and the applicant notified. No further action shall take place until a new application is received pursuant to the rules governing the licensure process, including another payment of all fees.
- (3) If a completed application is initially denied by the reviewing Board member, the applicant shall be informed of the initial decision and that a determination shall be made by the Board at its next meeting. If the Board confirms the initial denial, the following shall occur:
 - (a) A notification of the denial shall be sent to the applicant by certified mail return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, examination failure or other matters rendering the application insufficient for licensure and such notification shall contain all the specific statutory or rule authorities for the denial.

(Rule 1200-30-01-.07, continued)

- (b) The notification, when appropriate, shall contain a statement which sets forth the applicant's right to request a hearing pursuant to the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial and the procedure necessary to perfect the appeal.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if, after review and attempted resolution by the Board, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal.
 3. Any appeal request must be made in writing to the Board within thirty (30) days of the receipt of the notice of denial.
- (4) After review of the application, an applicant may be asked to appear before the Board for an interview.
- (5) The initial determination procedures of this rule will not apply if the full Board reviews and makes final determination on the application during its meeting.
- (6) The Board may delay a decision on eligibility to take the written examination for any applicant for whom additional clarifying information is needed. The Board shall make this request for additional information in writing within sixty (60) days from the date of the official review of the application.
- (7) If the Board finds it has erred in the issuance of a license, it will give written notice by certified mail of the intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from date of receipt of the notification. If the applicant does not concur with the stated reason(s) and the intent to revoke the license, the applicant shall have the right to a contested case hearing as provided by these rules.
- (8) Abandonment of Application.
 - (a) An application shall be deemed abandoned and the file closed if:
 1. The application has not been completed by the applicant within one hundred and twenty (120) days after it was initially reviewed and received by the Board; or
 2. The applicant fails to sit or pass the written and oral sections of the examination within twelve (12) months after being notified of eligibility.
 - (b) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.
- (9) Request to re-open application - When an application has been closed pursuant to Paragraph (8) of this rule, the Board may consider re-opening the application upon receipt of a written request and appropriate notarized documentation from the applicant stating the extenuating circumstances and/or the medical condition that caused the Board's deadline to not be met. If applicable, a letter must accompany such request from the applicant's personal physician attesting to the medical condition that caused the Board's deadline to not be met.

(Rule 1200-30-01-.07, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-24-605. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed November 26, 2008; effective February 9, 2009.

1200-30-01-.08 EXAMINATIONS. In addition to having filed an application, an individual seeking licensure by examination shall be required to successfully complete the Board's written, oral, and jurisprudence examinations. In addition to having filed an application, an individual seeking licensure by reciprocity shall be required to successfully complete the Board's jurisprudence examination.

- (1) Written examination.
 - (a) The written examination adopted by the Board is the examination developed by NAADAC and administered by its designated testing agency.
 - (b) The Board shall include with its application materials information regarding the written examination.
 - (c) Passing scores on the examination are determined by NAADAC and are adopted by the Board as constituting successful completion of the written examination.
 - (d) NAADAC will notify both the Board and the candidate of his/her passing or failing status.
- (2) Oral examination.
 - (a) An oral examination is required for each applicant other than those applying by reciprocity. The applicant shall be eligible to sit for the oral examination only after obtaining a passing score on the written examination.
 - (b) The oral examination shall be administered by a panel consisting of
 1. any three (3) members of the Board; or
 2. a panel of three (3) examiners selected by the Board who
 - (i) possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in Tennessee that have not been disciplined, restricted, or encumbered for the past five (5) years; and
 - (ii) if licensed or certified to practice alcohol and drug abuse counseling in other states, possess active, unrestricted, and unencumbered licenses to practice alcohol and drug abuse counseling in such other states that have not been disciplined, restricted, or encumbered for the past five (5) years; and
 - (iii) if licensed or certified to practice any other health-related profession in Tennessee or in any other state, possess active, unrestricted, and unencumbered licenses to practice such health-related professions that have not been disciplined, restricted, or encumbered for the past five (5) years.
 - (c) An oral examination is scheduled for each applicant as soon as reasonable after receipt of a passing score from the written examination. Notification of the test date

(Rule 1200-30-01-.08, continued)

and site of the oral examination will be provided to an applicant in writing from the Board at least thirty (30) days prior to the oral examination date.

- (d) The oral examination of an applicant shall cover:
 - 1. The applicant's knowledge of the content and interpretation of these rules and the NAADAC Code of Ethics.
 - 2. The applicant's knowledge and skill of the Primary Functions as stated in Rule 1200-30-01-.02(4) and described in the Board's licensure application.
 - 3. Other practice-related areas, including but not limited to past work history, professional experiences and hypothetical situations.
 - (e) The oral examination panel shall make a recommendation of pass or fail and the Board shall review such recommendation before making its decision. At its discretion, the Board may accept the examination panel's recommendation, reverse the recommendation, or request another examination by a new panel. The written report of the oral examination panel, including the panel recommendation, becomes a part of the applicant's licensure file. It is required that all oral examinations be audiotaped. At its discretion, the Board may review the entire contents of the audiotaped record before making its decision. The audiotaped record of every failed oral examination will be maintained at the Board office until the applicant has successfully passed the oral examination.
 - (f) The Board will notify the applicant of his/her passing or failing status within ten (10) working days of the Board's ratification of the oral examination results.
- (3) Jurisprudence Examination. All applicants for licensure must successfully complete the Board's jurisprudence examination as a prerequisite to licensure.
- (a) The Board shall include a jurisprudence examination with all applications for licensure that are mailed from the Board's administrative office, or the applicant may obtain the jurisprudence examination from the Board's Internet web page that can be accessed at www.Tennessee.gov.
 - (b) The applicant shall include a completed jurisprudence examination when his/her completed application for licensure is returned to the Board's administrative office.
 - (c) There is no fee for the jurisprudence examination.
 - (d) The scope and content of the examination shall be determined by the Board but limited to statutes and regulations governing the practice of alcohol and drug abuse counselors (T.C.A. §§ 68-24-604, et seq., and Chapter 1200-30-01 of the rules of the Tennessee Department of Health) and the NAADAC Code of Ethics. Copies of the applicable statutes, regulations, and the NAADAC Code of Ethics are available upon request from the Board's administrative office.
 - (e) The format of the examination shall be "open-book."
 - (f) Correctly answering ninety percent (90%) of the examination questions shall constitute successful completion of the jurisprudence exam.
- (4) Re-examination.

(Rule 1200-30-01-.08, continued)

- (a) Written examination. Applicants who fail to pass the written examination may apply to the NAADAC for re-examination. Hand-scoring and/or appeal requests are to be directed to the NAADAC.
 - (b) Oral examination.
 1. Applicants who fail to pass the oral examination may apply to the Board for re-examination.
 2. It is not required that an applicant repeat the written examination in order to repeat the oral examination.
 3. Should the applicant fail a second oral examination, the Board shall deny licensure pursuant to rule 1200-30-01.07. In such event, the applicant must then retake the written examination if the applicant reapplies.
 - (c) Jurisprudence Examination
 1. Applicants who fail to successfully complete the jurisprudence examination must continue to retake the examination until it has been successfully completed before the application will be deemed complete and presented to the Board for review.
 2. It is not required that an applicant repeat the written or oral examinations in order to repeat the jurisprudence examination.
- (5) If an applicant neglects, fails, or refuses to take any of the required examinations or fails to successfully complete the examinations within twelve (12) months after being approved, the application will be deemed abandoned. Such applicant may thereafter make a new application accompanied by the required fee. The applicant shall meet the requirements in effect at the time of the new application.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed August 19, 2002; November 2, 2002. Amendment filed June 15, 2004; effective August 29, 2004. Amendment filed November 26, 2008; effective February 9, 2009.

1200-30-01-.09 RENEWAL OF LICENSE.

- (1) Renewal application.
 - (a) The due date for license renewal is the expiration date indicated on the licensee's renewal certificate.
 - (b) Methods of Renewal
 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such

(Rule 1200-30-01-.09, continued)

notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

- (c) To be eligible for renewal, an individual must submit the following to the Board on or before the expiration date:
 - 1. A completed and signed renewal application form; and
 - 2. The biennial renewal fees as provided in these rules.
 - (d) Renewals may be issued administratively or by the Board.
 - (e) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of Expired License
- (a) Reinstatement of an expired license may be accomplished upon filing a reinstatement application and payment of reinstatement, renewal and late renewal fees pursuant to rule 1200-30-01-.06.
 - (b) An applicant for reinstatement must comply with the continuing education requirements of rule 1200-30-01-.12.
 - (c) If requested, an applicant for reinstatement shall appear before the Board for an interview.
- (3) Anyone submitting a signed renewal or reinstatement application which is found to be untrue may be subject to disciplinary action as provided in these rules.
- (4) Application procedures shall be governed by Rule 1200-30-01-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-01-.15.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 19, 2002; November 2, 2002. Amendment filed October 18, 2004; effective January 1, 2005.

1200-30-01-.10 SUPERVISION.

- (1) Pursuant to Rule 1200-30-01-.04, an applicant for licensure as an alcohol and drug abuse counselor shall present documentation, at the time the application is submitted, of completion of six thousand (6000) hours of clinical experience supervised by a supervisor who meets the requirements of paragraphs (2) or (3).
 - (a) One hundred (100) hours of the six thousand (6000) hour requirement shall be face-to-face supervision.
 - 1. No more than fifty (50) hours of the one hundred (100) hours may occur during any calendar year in which part of the six thousand (6000) supervised hours transpire.

(Rule 1200-30-01-.10, continued)

2. No less than twelve (12) hours of the one hundred (100) hours may occur during any calendar year in which part of the six thousand (6000) supervised hours transpire.
 - (b) Group supervision may occur provided that the applicant has a minimum of six (6) face-to-face individual supervision hours per year.
 - (c) A Supervisor seeking to supervise an alcohol and drug abuse counselor subject to Rule 1200-30-01-.04(1)(d)4 shall obtain no less than sixty (60) formal classroom hours of instruction related to compulsive gambling disorder prior to undertaking such supervision.
 - (d) Documentation includes, but is not limited to, dates of supervision, beginning and ending times, names of clinicians present, topic areas discussed, clinical recommendations, follow-up on previous recommendations, professional issues/concerns, professional development needs/accomplishments, and number of cases reviewed per clinical participant with signatures of supervisor and all supervision participants.
 - (e) The supervisor shall follow methods of supervision used in accordance with a standard practice (e.g., Family Systems, Transactional Analysis, Reality Therapy, Gestalt, Psychodrama, etc.) or a combination of standard practices of the supervisor's choice.
 - (f) The supervisor shall maintain copies of records of supervision for eight (8) years. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (g) Failure to conduct supervision in accordance with these rules or falsification of the records of supervision is considered a breach of professional conduct and may result in disciplinary action as provided in Rule 1200-30-01-.15.
- (2) Before supervision may begin, the supervisor of an applicant for licensure as an alcohol and drug abuse counselor shall obtain from the Board a Certificate of Qualified Clinical Supervision by meeting the following requirements:
 - (a) The supervisor has been a licensed alcohol and drug abuse counselor for at least five (5) years. The supervisor's license must be currently active, unencumbered, and unconditioned, and the supervisor must cease supervising if it becomes encumbered and/or conditioned; and
 - (b) The supervisor has two (2) years experience supervising alcohol and drug abuse counselors or has received at least thirty-six (36) contact (clock) hours of supervision (by a qualified supervisor) of his supervisory work by supervision of at least one (1) person doing alcohol and drug abuse counseling.
- (3) An applicant whose supervisor meets the requirements of paragraph (2) but is not licensed in Tennessee as an alcohol and drug abuse counselor may submit, with the licensure application, an approval request to the Board that documents the supervisor's qualifications. This request must include means by which verification of the qualifications may be independently confirmed (e.g., contact data for other state licensing or certification agencies, NAADAC, or proof of supervision).
- (4) Supervision that is consistent with the regulations that were effective prior to the effective date of this rule amendment will be accepted as qualified supervision.

(Rule 1200-30-01-.10, continued)

- (a) Licensees providing clinical supervision when these rules become effective will be permitted to continue supervising applicants whose supervision had already begun.
 - (b) Under no circumstances shall a licensee begin providing new clinical supervision without meeting the requirements of paragraphs (2) or (3).
- (5) Conflict of Interest - Supervision provided by the applicant's parents, spouse, former spouse, siblings, children, cousins, in-laws (present or former), aunts, uncles, grandparents, grandchildren, stepchildren, employees, present or former counselor, present or former romantic partner, or anyone sharing the same household shall not be acceptable toward fulfillment of licensure requirements. Any exceptions must be approved by the Board prior to such supervision. For the purposes of this rule, a supervisor shall not be considered an employee of the applicant, if the only compensation received by the supervisor consists of payments for the actual supervisory hours.
- (6) Accountability – In all cases the specific terms of the supervisory arrangement are the responsibility of the qualified supervisor upon whom it is incumbent to assure appropriate supervisory time. Likewise, it is the responsibility of the applicant to obtain supervision. The education, training, experience, and ongoing performance of the applicant must be considered by the supervisor. The arrangements for supervision must be agreed to by both the qualified supervisor and the applicant. Ultimately, the qualified supervisor of record must protect the welfare of the client and assure compliance with Tennessee law and professional ethics.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605 and 68-24-608. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed November 2, 2005; effective January 16, 2006. Amendment filed August 5, 2011; effective November 3, 2011.

1200-30-01-.11 LICENSURE RETIREMENT AND REACTIVATION.

- (1) License holders who wish to retain their licenses, but not actively practice alcohol and drug counseling, may avoid expiration of licensure and/or compliance with the licensure renewal process by licensure retirement. A license may be retired by obtaining from and submitting to the Board an affidavit of retirement form along with any documentation which may be required.
- (2) Any licensee whose license has been retired may reactivate the license by:
 - (a) Paying the licensure renewal fee.
 - (b) If requested, appearing before the Board for an interview regarding continued competence in the event of licensure retirement in excess of two (2) years.
 - (c) Successfully completing the written examination for licensure if licensure retirement was in excess of five (5) years and the Board determines that re-examination is necessary to protect the public.
 - (d) Complying with the continuing education requirements.
- (3) Application procedures shall be governed by Rule 1200-30-01-.07, and applicant review and licensure decisions shall be governed by Rule 1200-30-01-.15.

(Rule 1200-3-01-.11, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 13, 2000; effective February 26, 2001.

1200-30-01-.12 CONTINUING EDUCATION. Each licensee is required to complete fifteen (15) contact hours of alcohol and drug abuse continuing education during each calendar year (January 1 to December 31). Nine (9) hours must be face to face and six (6) hours may be multi-media with at least three (3) of the fifteen (15) hours relating to ethics.

- (1) Continuing education for new licensees - For new licensees, submitting proof of successful completion of all education and training requirements required for licensure in Tennessee, pursuant to subparagraphs 1200-30-01-.04 (1) (c) and 1200-30-01-.05 (1) (a), shall be considered proof of sufficient preparatory education to constitute continuing education credit for the calendar year in which such education and training requirements were completed.
- (2) The following organizations and entities are authorized to present, sponsor, or approve continuing education courses, events, and activities related to the practice of alcohol and drug abuse counseling:
 - (a) Nationally or regionally accredited institutions of higher education
 - (b) NAADAC (The Association for Addiction Professionals)
 - (c) TAADAC (The Tennessee Association of Alcohol and Drug Abuse Counselors)
 - (d) Tennessee Department of Health
 - (e) TAADAS (The Tennessee Association of Alcohol, Drug and Other Addiction Services)
 - (f) TAMHO (The Tennessee Association of Mental Health Organizations)
 - (g) Tennessee Department of Mental Health.
- (3) Continuing education program approval process for providers of education.
 - (a) All providers of continuing education not authorized by paragraph (2) must request and receive approval of their program content by the Board to fulfill the continuing education requirements set forth in this rule. Providers who intend to offer more than one (1) presentation of the same course, event, or activity during one (1) calendar year may combine in a single application the information required by subparagraph (3) (b) for the multiple presentations.
 - (b) Application for approval shall contain the topic, credentials of the speaker or presenter, a brief description of program content or content objectives, the date and length in minutes of each presentation, the place of instruction and the sponsoring institution or organization. Application for approval of Multi-Media courses, as provided in subparagraph (5) (c), shall submit this information on an annual basis as applicable, and shall also submit a brief description of the course format.
 - (c) All applications for approval must be submitted to the Board at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the educational offering. The Board shall review each application and shall rule on whether the offering(s) in whole or in part shall be accepted as valid for the purposes of the

(Rule 1200-30-01-.12, continued)

continuing education requirements of this rule. The decision of the Board shall be final in all such matters.

- (4) Documentation.
- (a) On a Board provided form, each licensee must check a box and/or enter his signature which indicates attendance and completion of all the required contact hours of continuing education and that such hours were obtained.
 - (b) Each licensee shall retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the renewal period in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (c) Documentation of continuing education includes:
 - 1. A certificate verifying the individual's attendance at the continuing education program.
 - 2. An original letter on official institution letterhead from the instructor of the graduate level course verifying that the course was completed and listing the number of credit hours of attendance completed by the individual.
 - 3. An official transcript verifying credit hours earned. One semester academic credit hour is equivalent to fifteen (15) contact hours. One quarter academic credit hour is equivalent to twelve (12) contact hours.
 - 4. A certificate or letter verifying successfully passing a written post experience examination to evaluate material retention upon completion of a Multi-Media course, as provided in subparagraph (5) (c). The certificate or letter must include the contact hours awarded (continuing education units must be converted to contact hours), date completed, program title, licensee's name, and license number.
- (5) It is the licensee's responsibility, using his professional judgment, to determine whether or not a particular educational/training experience is applicable and appropriate to his professional development and meets the standards specified in these rules.
- (a) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Board may request a written description of the training and how it applies to the individual's professional practice. If the Board determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next year.
 - (b) Continuing education credit or contact hours of training will not be allowed for the following:
 - 1. Regular work activities, administrative staff meetings, case staffing/reporting, etc.;
 - 2. Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations or banquet speeches;

(Rule 1200-30-01-.12, continued)

3. Independent, unstructured or self-structured learning; or
4. Training specifically related to policies and procedures of an agency.

(c) Multi-Media

1. Notwithstanding the provisions of part (5) (b) 3., continuing education courses may be presented in the traditional lecture and classroom formats or, in accordance with paragraphs (2) and (3) and with successful completion of a written post experience examination to evaluate material retention, courses may be presented in Multi-Media formats. Multi-Media courses may include courses utilizing:

- (i) The Internet
- (ii) Closed circuit television
- (iii) Satellite broadcasts
- (iv) Correspondence courses
- (v) Videotapes
- (vi) CD-ROM
- (vii) DVD
- (viii) Teleconferencing
- (ix) Videoconferencing
- (x) Distance learning

2. A maximum of fifteen (15) contact hours may be granted for multi-media courses during each calendar year.

(6) Continuing education for reactivation of license.

(a) Reactivation of retired license.

1. Any individual requesting reactivation of a license which has been retired one or more years shall so indicate on a Board provided form which indicates the attendance and completion of thirty (30) continuing education hours. The continuing education hours must have been begun and successfully completed within twelve (12) months immediately preceding the date of requested reinstatement.
2. The Board, upon receipt of a written request and explanation, may waive or condition any or all of the contact hours requirement for reactivation of a retired license in emergency situations.

- (b) Reactivation of revoked license – No person whose license has been revoked for failure to comply with the continuing education contact hours requirement may be reinstated without complying with the requirement. The continuing education hours will

(Rule 1200-30-01-.12, continued)

accumulate at the same rate and are required the same as those for licenses which are active. A license which has been revoked for noncompliance with the continuing education requirement shall also be subject to the late renewal fee.

- (c) Reactivation of expired license – No person whose license has expired as a result of failure to comply with the renewal requirements of rule 1200-30-01-.09 may be reinstated without complying with the requirements of this rule. The continuing education hours will accumulate at the same rate and are required the same as those for licenses which are active. A license which has expired as a result of failure to comply with the renewal requirements of rule 1200-30-01-.09 shall also be subject to the late renewal fee.
 - (d) Any licensee requesting reactivation of either a retired or revoked license shall indicate on a Board provided form that he has complied with the continuing education requirement pursuant to this rule and that such continuing education hours were begun and successfully completed within twelve (12) months immediately preceding the date of requested reinstatement.
 - (e) Continuing education hours obtained as a prerequisite for reactivating either a retired or revoked license may not be counted toward the current licensure renewal year requirement.
- (7) Waiver of continuing education.
- (a) The Board may grant a waiver of attendance and completion of the required hours of continuing education, if it can be shown that the failure to comply was not attributable to the individual or was beyond the physical capabilities of the individual, e.g., disability, residence abroad, military service or other good cause. A request for waiver must be received by the Board on or before the license expiration date.
 - (b) Waiver requests will be considered only on an individual basis and may be made by submitting the following items to the Board:
 - 1. A written request for a waiver which specifies what requirement is sought to be waived and an explanation of the reason(s) for the request, dated and signed by the licensee.
 - 2. Any documentation which supports the reason(s) for the waiver requested or which may be subsequently requested.
 - (c) An approved waiver is effective only for the calendar year for which the waiver of the requirement is sought, unless otherwise specified in writing by the Board.
- (8) Violations.
- (a) Any licensee who falsely attests to attendance and completion of the hours of continuing education may be subject to disciplinary action pursuant to the provisions of these rules.
 - (b) Any licensee who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to the provisions of these rules.
 - (c) Continuing education hours obtained as a result of compliance with the terms of enforcement action taken by the Board shall not be counted toward the continuing education hours required to be obtained in any renewal cycle.

(Rule 1200-30-01-.12, continued)

- (d) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (e) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (f) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (d) above may be subject to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed September 13, 2001; effective November 27, 2001. Amendment filed August 19, 2002; November 2, 2002. Amendments filed October 18, 2004; effective January 1, 2005. Amendment filed November 2, 2005; effective January 16, 2006. Amendment filed May 18, 2007; effective August 1, 2007. Amendment filed July 3, 2007; effective September 16, 2007. Amendments filed August 5, 2011; effective November 3, 2011.

1200-30-01-.13 PROFESSIONAL ETHICS.

- (1) A licensed Alcohol and Drug Abuse Counselor and anyone under his supervision shall conduct his professional practice in conformity with the NAADAC Code of Ethics and these rules.
- (2) Each applicant or license holder is responsible for being familiar with and following these standards.
- (3) In the event an applicant, license holder, or other individual has a question regarding legal, ethical and professional standards, neither the Board nor its administrative personnel shall consider such questions unless presented with a proper petition for a declaratory order.
- (4) A licensee must report any other licensee believed to be practicing in such a way as to indicate impairment, potential harm to clients, and/or to cause undue negative reflection or harm to his profession. Such reporting shall be made to the Department of Health, Division of Health Related Boards, Investigative Section.
 - (a) A licensee who is aware of unethical conduct or unprofessional modes of practice must report such inappropriate behavior, unless constrained by the need to protect patient confidentiality.
 - (b) A licensee shall cooperate with the Department's Investigative Section and promptly supply necessary information unless constrained by the need to protect patient confidentiality.
 - (c) In the event a supervisor suspects the person being supervised is guilty of unethical conduct, the supervisor shall adhere to the standards of the profession and shall report such conduct.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-24-604 through 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000.

1200-30-01-.14 LICENSE.

- (1) Display of license. Every person who has received a license from the Board shall produce the license when required by the Department or its authorized representatives.
- (2) Replacement license and/or renewal certificate. A licensee whose license or renewal certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document, the required fee, and a passport type recent (within the past twelve (12) months) photograph.
- (3) Change of name and/or address.
 - (a) Any licensee who has had a change of name shall file in writing with the Department his current mailing address, giving both old and new names. Such requests must be received no later than thirty (30) days after such change has occurred and must reference the individual's former and present name, profession, and license number.
 - (b) Any licensee who has had a change of address shall file in writing with the Board his current mailing address, giving both old and new addresses. Such requests must be received no later than thirty (30) days after such change has occurred and must reference the individual's name, profession, and license number.
- (4) Requests for verification of license must be made in writing to the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-108, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000.

1200-30-01-.15 DISCIPLINARY ACTIONS AND CIVIL PENALTIES.

- (1) Complaints against licensed Alcohol and Drug Abuse Counselors shall be investigated by the Department. Upon a finding by the Department that a licensed Alcohol and Drug Abuse Counselor may have violated any provision of these rules a notice of charges may be issued. The Board, upon a finding of violation of these rules, may impose any of the following actions separately or in any combination deemed appropriate to the offense:
 - (a) Private censure. A written action issued to the licensed Alcohol and Drug Abuse Counselor for minor infractions. Such action is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public censure or reprimand. A written action issued to a licensed Alcohol and Drug Abuse Counselor for single incident and less severe violations. It is a formal disciplinary action and a copy will be provided to persons making an inquiry.
 - (c) Probation. A formal disciplinary action which places a licensed Alcohol and Drug Abuse Counselor on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
 - (d) Suspension. A formal disciplinary action which suspends an individual's right to represent himself as a licensed Alcohol and Drug Abuse Counselor for a fixed period of time. It contemplates the reentry of the individual into the practice under the license previously issued.

(Rule 1200-30-01-.15, continued)

- (e) Revocation for cause. This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license previously issued. No petition for reinstatement and no new application for licensure from a person whose license has been revoked shall be considered prior to the expiration of at least one (1) year, unless otherwise stated in the Board's revocation order.
 - (f) Conditions. Any action deemed appropriate by the Board to be required of a disciplined licensee during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension.
- (2) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
 - 1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 - 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 - 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.
 - (b) Procedures
 - 1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's

(Rule 1200-30-01-.15, continued)

consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Alcohol and Drug Abuse Counselors

Petitioner's Name: _____
Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

(Rule 1200-30-01-.15, continued)

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20_____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
 - (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
 - (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be

(Rule 1200-30-01-.15, continued)

considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Alcohol and Drug Abuse Counselors

Petitioner's Name: _____
Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

(Rule 1200-30-01-.15, continued)

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20_____.

Petitioner's Signature

(5) Civil penalties.

(a) Purpose. The purpose of this paragraph is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(b) Schedule of civil penalties.

1. A "Type A" civil penalty may be imposed whenever the Board finds the person who is licensed, permitted, or authorized by the Board is guilty of a willful and knowing violation of statutes regarding the licensing of alcohol and drug abuse counselors, T.C.A. 68-24-601, et seq. or rules promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public.
2. A "Type B" civil penalty may be imposed whenever the Board finds the person who is licensed, permitted, or authorized by the Board is guilty of a violation of statutes regarding the licensing of alcohol and drug abuse counselors, T.C.A. §§ 68-24-601, et seq. or rules promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A "Type C" civil penalty may be imposed whenever the Board finds the person who is licensed, permitted, or authorized by the Board is guilty of a violation of statutes regarding the licensing of alcohol and drug abuse counselors, T.C.A. §§ 68-24-601, et seq., or rules promulgated pursuant thereto, which are neither directly detrimental to the patients or the public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of civil penalties.

1. "Type A" civil penalties shall be assessed in the amount of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000).
2. "Type B" civil penalties may be assessed in the amount of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(Rule 1200-30-01-.15, continued)

3. "Type C" civil penalties may be assessed in the amount of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).
- (d) Procedures for assessing civil penalties.
1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division of Health Related Boards may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges.
 2. Civil penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division of Health Related Boards.
 3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
 4. All proceedings for the assessment of civil penalties shall be governed by the Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (6) Grounds for refusal to issue or renew or to suspend or revoke licenses or other disciplinary action - The Board may either refuse to issue or renew any license or may suspend or revoke or otherwise discipline any licensee for one (1) or more of the following reasons:
- (a) Making false statements or representations or being guilty of fraud or deceit in obtaining licensure, or being guilty of fraud or deceit in the practice of alcohol or other drugs of abuse counseling.
 - (b) The inability to perform or the consistent unsatisfactory performance of the expected functions of a licensed Alcohol and Drug Abuse Counselor.
 - (c) Knowingly assisting another in the procurement of licensure or renewal of a license through false statements or misrepresentation.
 - (d) Misrepresentation of professional qualifications, certification, accreditation, affiliations or employment experiences.
 - (e) Violations of the provisions of these rules or any lawful order of the Board.

(Rule 1200-30-01-.15, continued)

- (f) Engaging in malpractice, negligence, incompetence or conduct not authorized in the course and scope of practice.
 - (g) Violation of standards of patient confidentiality, as prescribed by state and federal law.
 - (h) Conviction of a felony or conviction of any crime involving moral turpitude.
 - (i) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances or other drugs or stimulants in such a manner as to adversely affect the person's ability to practice.
 - (j) Any other breach of the NAADAC Code of Ethics or these rules.
 - (k) When an applicant has had licensure disciplinary action taken or is under investigation by another state or territory of the United States or by any other entity assigned to the Division of Health Related Boards as provided in Rule 1200-10-1-.01 (3) for any acts or omissions which would constitute grounds for discipline of a license issued by this Board. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action or investigation from the disciplining state, territory, or licensing authority shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a license issued by this Board.
 - (l) When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.
- (7) The Board has the authority to:
- (a) Take appropriate disciplinary actions as the result of complaints received or investigations conducted.
- (8) Reconsiderations and Stays. 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.
- (9) All proceedings for disciplinary action against a licensee under this chapter shall be conducted in accordance with the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 of the Tennessee Code Annotated and the rules and regulations promulgated pursuant thereto.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-122, 68-24-605, 68-24-606, and 68-25-606. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed December 29, 1999; effective March 13, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 19, 2002; November 2, 2002. Amendment filed August 23, 2004; effective November 6, 2004. Amendment filed May 18, 2007; effective August 1, 2007. Amendment filed July 3, 2007; effective September 16, 2007.

1200-30-01-16 BOARD MEETINGS, CONSULTANTS, DECLARATORY ORDERS, AND SCREENING PANELS.

- (1) Any Board member having an immediate personal, private, or financial interest in any matter pending before the Board shall disclose the fact in writing and any such Board member shall not vote upon such matter.
- (2) All requests, applications, notices, other communications and correspondence shall be directed to the Board, as provided in these rules. Any requests or inquiries requiring a decision or official action, except documents relating to recommendations for disciplinary actions or hearing requests, must be received fourteen (14) days prior to a scheduled Board meeting. Such documentation not timely received shall be set over to the next Board meeting or handled by the Board if it concerns a recommendation for disciplinary action.
- (3) All records of the Board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Department.
- (4) Declaratory orders. The Board adopts, as if fully set out herein, rule 1200-10-1-.11 of the Division of Health Related Boards, as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to this rule. Declaratory order petition forms can be obtained from the Board's administrative office.
- (5) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 10-7-504, 63-1-138, 68-24-605, 68-24-606, and 45 CFR Part 2. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed May 18, 2007; effective August 1, 2007.

1200-30-01-17 ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many of the public concerning alcohol and drug abuse counseling services, the importance of the interests affected by the choice of an alcohol and drug abuse counselor, and the foreseeable consequences of unrestricted advertising by alcohol and drug abuse counselors which is recognized to pose special possibilities for deception, require that special care be taken by alcohol and drug abuse counselors to avoid misleading the public. The alcohol and drug abuse counselor must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by alcohol and drug abuse counselors is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions
 - (a) Advertisement - Informational communication to the public in any manner designed to attract public attention to the practice of an alcohol and drug abuse counselor who is licensed to practice in Tennessee.

(Rule 1200-30-01-.17, continued)

- (b) Licensee - Any person holding a license to practice as a Licensed Alcohol and Drug Abuse Counselor in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) Material Fact - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.
- (3) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unethical conduct, and subject the licensee to disciplinary action pursuant to Rule 1200-30-01-.15:
- (a) Claims that the services performed, personnel employed, or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, or equipment cannot be substantiated.
 - (b) The misleading use of an unearned degree.
 - (c) Promotion of professional services which the licensee knows or should know are beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality or competency of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
 - (h) The communication of personal identifiable facts, data, or information about a client without first obtaining patient consent.
 - (i) Any misrepresentation of a material fact.
 - (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
 - (k) Misrepresentation of credentials, training, experience, or ability.
 - (l) Failure to include the corporation, partnership or individual name, address, and telephone number of licensees in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees practicing at that location; and
 - 2. Maintain and conspicuously display a directory listing all licensees practicing at that location.

(Rule 1200-30-01-.17, continued)

- (m) Failure to disclose the fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement makes the fact of compensation apparent.
 - (n) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
 - (o) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.
 - (p) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a client in connection with the performance of professional services.
 - (q) Making false, deceptive, misleading or fraudulent statements regarding fees.
- (4) Advertising Records and Responsibility
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed or certified professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Board or its designee.
 - (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public communication.
- (5) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "Licensed Alcohol and Drug Abuse Counselor" and to practice alcohol and drug abuse counseling, as described in T.C.A. §§ 68-24-608 and 68-24-609. Any person licensed by the Board to whom this rule applies must use the title authorized by this rule in "advertising" [as that term is defined in rule 1200-30-01-.01 (1)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensed alcohol and drug abuse counselor to disciplinary action pursuant to rule 1200-30-01-.15.
- (6) Advertising Conduct

(Rule 1200-30-01-.17, continued)

- (a) Licensees who engage others to create or place public statements that promote their professional practice, products, or activities retain professional responsibility for such statements.
 - (b) If licensees learn of deceptive statements about their work made by others, licensees must make reasonable efforts to correct such statements.
 - (c) Licensees do not compensate employees of press, radio, television or other communication media in return for publicity in a news item.
 - (d) A paid advertisement relating to the licensee's activities must be identified as such, unless it is already apparent from the context.
- (6) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 68-24-605, 68-24-606, 68-24-608, and 68-24-609. **Administrative History:** Original rule filed May 25, 1994; effective August 9, 1994. Repeal and new rule filed January 30, 1997; effective May 30, 1997. Repeal and new rule filed December 28, 1999; effective March 12, 2000. Amendment filed May 18, 2007; effective August 1, 2007. Amendment filed November 26, 2008; effective February 9, 2009.

1200-30-01-.18 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice reporting requirements. The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).
- (2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:
 - (a) Conviction of any felony.
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.

(Rule 1200-30-01-.18, continued)

- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-51-101, et seq., and 68-24-605. **Administrative History:** Original rule filed December 29, 1999; effective March 13, 2000.

1200-30-01-.19 PROFESSIONAL PEER ASSISTANCE.

- (1) The Board has the prerogative to refer for assessment(s), and if needed, treatment, for the presenting problem(s) of any licensee or applicant voluntarily or involuntarily coming before the Board.
- (2) As an alternative to disciplinary action, or as part of a disciplinary action, the Board shall utilize the services of a professional assistance program, as approved by the Board, for situations regarding licensee substance abuse, chemical abuse, or lapses in professional and/or ethical judgments. Information regarding persons entering the program upon referral by this Board shall be confidential.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-136, 68-24-605, and 68-24-606. **Administrative History:** Original rule filed July 20, 2001; effective October 3, 2001.