

**RULES
OF
THE TENNESSEE BOARD OF NURSING**

**CHAPTER 1000-04
ADVANCED PRACTICE NURSES AND CERTIFICATES
OF FITNESS TO PRESCRIBE**

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1000-04-.01 PURPOSE AND SCOPE.

- (1) Tennessee Code Annotated § 63-7-126 requires nurse practitioners, nurse anesthetists, nurse midwives, and clinical nurse specialists meeting certain qualifications to apply to the Board of Nursing for a certificate to practice as an advanced practice nurse including authorization to use the title “advanced practice nurse” or the abbreviation “APN.” These rules implement this process and set forth the requirements for a registered nurse to hold himself/herself out as an advanced practice nurse.
- (2) Certification by the Tennessee Board of Nursing as an advanced practice nurse shall authorize such person to represent him/herself as an advanced practice nurse under the appropriate category of nurse practitioner, nurse anesthetist, nurse midwife or clinical nurse specialist.
- (3) The Nurse Practice Act, T.C.A. §§ 63-7-101, et seq., requires a certification process for a nurse practitioner to prescribe and/or issue legend drugs. These rules implement this certification process only and set forth the requirements a nurse must meet for certification as a nurse practitioner who prescribes and/or issues legend drugs.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207. **Administrative History:** Original rule filed April 5, 1982; effective May 20, 1982. Amendment filed November 4, 1985; effective December 4, 1985. Amendment filed December 30, 1994; effective March 18, 1995. Amendment filed June 26, 1997; effective September 8, 1997. Amendment filed March 25, 1999; effective June 8, 1999. Amendment filed October 26, 1999; effective January 9, 2000. Repeal and new rule filed May 28, 2004; effective August 11, 2004.

1000-04-.02 DEFINITIONS.

- (1) Advanced Practice Nurse (APN) - means a Tennessee licensed registered nurse who has a master’s degree or higher in a nursing specialty and has national specialty certification as a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist. The four (4) recognized categories for advanced practice nurses are Clinical Nurse Specialist, Nurse Anesthetist, Nurse Midwife, and Nurse Practitioner.
- (2) Clinical Nurse Specialist - means a Tennessee licensed registered nurse who has a master’s degree or higher in a nursing specialty and has national specialty certification as a clinical nurse specialist.

(Rule 1000-04-.02, continued)

- (3) Nurse Anesthetist - means a Tennessee licensed registered nurse who has a master's degree or higher in a nursing specialty and has national specialty certification as a certified registered nurse anesthetist.
- (4) Nurse Midwife - means a Tennessee licensed registered nurse who has a master's degree or higher in a nursing specialty and has national specialty certification as a certified nurse midwife.
- (5) Nurse Practitioner - means a Tennessee licensed registered nurse with a master's degree or higher in a nursing specialty and has national specialty certification as a nurse practitioner.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207. **Administrative History:** Original rule filed April 5, 1982; effective May 20, 1982. Amendment filed November 4, 1985; effective December 4, 1985. Amendment filed December 30, 1994; effective March 18, 1995. Repeal and new rule filed May 28, 2004; effective August 11, 2004.

1000-04-.03 ADVANCED PRACTICE NURSE CERTIFICATE. To be issued a certificate as an advanced practice nurse with privileges to hold oneself out as an advanced practice nurse (APN), the applicant must meet all of the following requirements:

- (1) A current, unencumbered license as a registered nurse under T.C.A. Title 63, Chapter 7;
- (2) Has completed preparation in advanced practice nursing at the post-basic professional nursing level and holds a master's degree or higher in a nursing specialty. A master's degree or higher in a nursing specialty is not required if:
 - (a) National certification in a nursing specialty and licensure in Tennessee as a registered nurse was obtained prior to July 1, 2005; or
 - (b) National certification in a nursing specialty and licensure as a registered nurse with the multistate licensure privilege to practice in Tennessee was obtained prior to July 1, 2005; and
- (3) A current national specialty certification in the appropriate nursing specialty area.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, 63-7-207, and 63-7-302. **Administrative History:** Original rule filed April 5, 1982; effective May 20, 1982. Amendment filed February 14, 1984; effective March 15, 1984. Amendment filed November 4, 1985; effective December 4, 1985. Amendment filed August 7, 1992; effective September 21, 1992. Amendment filed February 21, 1996; effective May 6, 1996. Amendment filed March 25, 1999; effective June 8, 1999. Repeal and new rule filed May 28, 2004; effective August 11, 2004. Amendment filed December 16, 2005; effective March 1, 2006.

1000-04-.04 CERTIFICATE OF FITNESS.

- (1) Certification by the Tennessee Board of Nursing to prescribe and/or issue legend drugs, pursuant to T.C.A. § 63-7-123, shall authorize a nurse practitioner to prescribe and/or issue such drugs. Any nurse who prescribes and/or issues drugs without proper certification by the Tennessee Board of Nursing shall be subject to disciplinary action by the Board of Nursing in accordance with the provisions of T.C.A. § 63-7-115.
- (2) In order to be issued a certificate of fitness as a nurse practitioner with privileges to write and sign prescriptions and/or issue legend drugs, a nurse must meet all of the following requirements:

(Rule 1000-04-.04, continued)

- (a) A current, unencumbered license as a registered nurse under T.C.A. Title 63, Chapter 7;
 - (b) Preparation in specialized practitioner skills at the master's, post-master's, doctoral, or post-doctoral level, including, but not limited to, at least three (3) quarter hours of pharmacology instruction or its equivalent;
 - (c) A current national certification in the appropriate nursing specialty area; and
 - (d) Graduation from a program conferring a master's or doctoral degree in nursing.
- (3) Those applicants intending to prescribe, issue or administer controlled substances pursuant to T.C.A. § 63-7-123(b)(2) shall maintain their Drug Enforcement Administration Certificate to Prescribe Controlled Substances at their practice location to be inspected by the Board or its authorized representative.
- (4) A nurse who has been issued a certificate of fitness shall file a notice with the Board of Nursing containing:
- (a) The nurse's full name;
 - (b) A copy of the formulary describing the categories of legend drugs to be prescribed and/or issued by the nurse; and
 - (c) The name of the licensed physician having supervision, control and responsibility for prescriptive services rendered by the nurse.
- (5) Every nurse who has been issued a certificate of fitness shall be responsible for updating the information submitted pursuant to paragraph (4) within thirty (30) days of the change.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, and 63-7-207. **Administrative History:** Original rule filed March 11, 1993; effective April 25, 1993. Amendment filed February 21, 1996; effective May 6, 1996. Repeal and new rule filed May 28, 2004; effective August 11, 2004.

1000-04-.05 RENEWAL OF CERTIFICATE AND DEMONSTRATION OF COMPETENCY. All advanced practice nurses who hold a Tennessee registered nurse license must biennially renew their Tennessee registered nurse license pursuant to Rule 1000-01-.03 and must demonstrate competency as a registered nurse pursuant to Rule 1000-01-.14. Additionally, to demonstrate competency to hold and/or renew an Advanced Practice Nurse Certificate, an advanced practice nurse shall:

- (1) Have initially obtained or maintained, during the most recent biennial renewal period, certification from a nationally recognized certification body appropriate to the nurse's specialty area; and
- (2) If in possession of a Certificate of Fitness pursuant to Rule 1000-04-.04, have successfully completed a minimum of two (2) contact hours of continuing education designed specifically to address controlled substance prescribing practices. The continuing education must include instruction in the Tennessee Department of Health's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol, and may include such other topics as medicine addiction and risk management tools.

Authority: T.C.A. §§ 63-1-402, 63-7-114, 63-7-123, 63-7-126, and 63-7-207. **Administrative History:** Original rule filed October 26, 1999; effective January 9, 2000. Repeal filed March 9, 2001; effective May 23, 2001. New rule filed May 28, 2004; effective August 11, 2004. Repeal filed December 16, 2005;

(Rule 1000-04-.05, continued)

effective March 1, 2006. Amendment filed December 20, 2012; effective March 20, 2013. Amendment filed March 24, 2015; effective June 22, 2015.

1000-04-.06 FEES.

(1) Type	Amount
(a) Application for Advanced Practice Nurse Certificate (includes fee for Certificate of Fitness to Prescribe as provided in rule 1000-01-.12(1)(i), if applicable). If a Certificate of Fitness to Prescribe has previously been obtained by the applicant (including payment of the applicable fee), this application fee shall be waived.	\$200.00
(b) Advanced Practice Nurse Certificate Renewal (biennial) [requires current national specialty certification]	\$100.00
(c) Advanced Practice Nurse Certificate Reinstatement	\$100.00
(d) State Regulatory Fee (biennial)	\$ 10.00
(2) Fees may be paid in the following manner:	
(a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Tennessee Board of Nursing.	
(b) Fees may be paid by credit cards approved by the Division of Health Related Boards or other Division-approved electronic methods.	

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-7-114, 63-7-123, 63-7-126, and 63-7-207.
Administrative History: Original rule filed May 28, 2004; effective August 11, 2004. Amendment filed November 4, 2006; effective January 18, 2006. Amendment filed December 16, 2005; effective March 1, 2006.

1000-04-.07 PROCESSING OF APPLICATIONS. A nurse seeking to practice, pursuant to T.C.A. § 63-7-126 and this Chapter, as an advanced practice nurse with or without privileges to write and sign prescriptions and/or issue legend drugs, shall request an application from the Tennessee Board of Nursing or shall download an application from the Internet, and subsequently submit the application to the Board along with the documentation required by Rule .03 and the applicable fee(s) as required by Rule .06. After review, the Board shall notify the applicant, in writing, sent to the address furnished in the application, the following information, as applicable:

- (1) That the application is incomplete or more information is required.
- (2) That the application is denied (including the reasons for denial).
- (3) That the application is approved and a certificate of fitness with an identifying number has been forwarded to the Director of the Division of Health Related Boards to be filed and recorded.

(Rule 1000-04-.07, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-7-123, 63-7-126, and 63-7-207. **Administrative History:** Original rule filed May 28, 2004; effective August 11, 2004.

1000-04-.08 TREATMENT OF PAIN. The purpose of this rule is to recognize that some controlled substances are indispensable for the treatment of pain, and are useful for relieving and controlling many other related symptoms that patients may suffer. It is the position of the Board of Nursing that these drugs may be prescribed for the treatment of pain and other related symptoms after a reasonably based diagnosis has been made, in adequate doses, and for appropriate lengths of time, which in some cases may be as long as the pain or related symptoms persist. The Board recognizes that pain, including intractable pain, and many other related symptoms are subjective complaints and that the appropriateness and the adequacy of drug and dose will vary from individual to individual. The Advanced Practice Nurse, who possesses a certificate of fitness issued by the Board and possesses a Drug Enforcement Administration (DEA) Certificate to Prescribe Controlled Substances, is expected to exercise sound judgment in treating pain and related symptoms with controlled substances.

- (1) Definitions. The following words and terms, as used in this rule shall have the following meanings in the context of providing medications for pain and related symptoms.
 - (a) Abuser of narcotic drugs/controlled substances - A person who takes a drug or drugs for other than legitimate medical purposes.
 - (b) Intractable pain - A pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts.
 - (c) Non-therapeutic in nature or manner - A medical use or purpose that is not legitimate.
 - (d) Prescribing pharmaceuticals or practicing consistent with the public health and welfare - Prescribing pharmaceuticals and practicing Advanced Practice Nursing for a legitimate purpose in the usual course of professional practice.
- (2) An Advanced Practice Nurse who does not choose to provide long-term pain management to patients with intractable pain shall offer the patient a referral to a practitioner whose primary practice is in the treatment of severe, chronic, intractable pain with methods including the use of opiates. If the patient requests such a referral the APN shall assist in the transition to another provider for the purpose of pain management.
- (3) An Advanced Practice Nurse possessing a certificate of fitness issued by the Board and a DEA certificate who provides care for persons with intractable pain with or without opiates is expected to demonstrate current knowledge of long-term pain management.
- (4) Guidelines - The Tennessee Board of Nursing will use the following guidelines to determine whether an Advanced Practice Nurse's conduct violates T.C.A. § 63-7-115(a)(1)(A) through (G) in regard to the prescribing, administering, ordering, or dispensing of pain medications and other drugs necessary to address their side effects.
 - (a) The treatment of pain, including intractable pain, with controlled substances serves a legitimate purpose when done in the usual course of professional practice.
 - (b) An Advanced Practice Nurse duly authorized to practice in Tennessee and to prescribe controlled substances in this state shall not be subject to disciplinary action by the Board for prescribing, ordering, administering, or dispensing controlled substances for the treatment and relief of pain, including intractable pain, in the usual course of

(Rule 1000-04-.08, continued)

professional practice for a legitimate purpose in compliance with applicable state and federal law.

- (c) Prescribing, ordering, administering, or dispensing controlled substances for pain will be considered to be for a legitimate purpose if based upon accepted scientific knowledge of the treatment of pain, including intractable pain, not in contravention of applicable state or federal law, and if prescribed, ordered, administered, or dispensed in compliance with the following guidelines where appropriate and as is necessary to meet the individual needs of the patient.
 - 1. The record shall include a documented medical history and physical examination by the Advanced Practice Nurse who possesses a certificate of fitness and a DEA certificate and is providing the medication. Historical data shall include pain history, any pertinent evaluations by another provider, history of and potential for substance abuse, pertinent coexisting diseases and conditions, psychological functions and the presence of a recognized medical indication for the use of a controlled substance;
 - 2. A written treatment plan tailored for individual needs of the patient shall include objectives such as pain relief and/or improved physical and psychosocial function, and shall consider need for further testing, consultations, referrals, or use of other treatment modalities dependent on patient response;
 - 3. The Advanced Practice Nurse who possesses a certificate of fitness and a DEA certificate shall discuss the risks and benefits of the use of controlled substances with the patient or guardian;
 - 4. At each periodic interval in which the Advanced Practice Nurse, who possesses a certificate of fitness and a DEA certificate and is providing care, evaluates the patient for continuation or change of medications, the patient record shall include progress toward reaching treatment objectives, any new information about the etiology of the pain, and an update on the treatment plan.
- (d) In determining the need for any disciplinary action in regard to the Advanced Practice Nurse who possesses a certificate of fitness and a DEA certificate, each case of prescribing for chronic pain will be evaluated on an individual basis as to whether the nurse is prescribing and practicing in a manner consistent with public health and welfare. The Board of Nursing will evaluate for proper documentation, therapeutic prescribing in a manner using drugs that are recognized to be appropriate pharmacologically for the diagnosis, treatment outcomes including improvement in functioning, and recognition that some types of pain cannot be completely relieved.
- (e) Quantity of pharmaceuticals and chronicity of prescribing will be evaluated on the basis of the documented appropriate diagnosis and treatment of the recognized medical indication, documented persistence of the recognized medical indication, and properly documented follow-up evaluation with appropriate continuing care as set out in this rule.
- (f) An Advanced Practice Nurse may use any number of treatment modalities for the treatment of pain, including intractable pain, which are consistent with legitimate medical purposes.
- (g) These rules shall not be construed so as to apply to the treatment of acute pain with controlled substances for purposes of short-term care.

(Rule 1000-04-.08, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 53-11-301, 63-7-115, 63-7-123, 63-7-126, and 63-7-207.
Administrative History: Original rule filed October 18, 2004; effective January 1, 2005.

1000-04-.09 PREREQUISITES TO PRESCRIBING OR DISPENSING MEDICATIONS.

- (1) Except as provided in paragraph (2), it shall be a prima facie violation of T.C.A. § 63-7-115(a)(1)(C) and (F) for an Advanced Practice Nurse, having proper authority to prescribe, to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the Advanced Practice Nurse with proper authority to prescribe or the APN's licensed supervisee and pursuant to appropriate protocols or orders, has completed and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
 - (a) Performed an appropriate history and physical examination; and
 - (b) Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good health care; and
 - (c) Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
 - (d) Insured availability of the Advanced Practice Nurse with proper authority to prescribe, or coverage for the patient for appropriate follow-up care.
- (2) An Advanced Practice Nurse having proper authority to prescribe, or the APN's licensed supervisee and pursuant to appropriate protocols or orders, may prescribe or dispense drugs for a person not in compliance with paragraph (1) consistent with sound judgment, examples of which are as follows:
 - (a) In admission orders for a newly hospitalized patient; or
 - (b) For a patient of a physician or of an Advanced Practice Nurse with proper authority to prescribe for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication; or
 - (c) For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; or
 - (d) For established patients who, based on sound practices, the Advanced Practice Nurse having proper authority to prescribe, believes do not require a new physical examination before issuing new prescriptions.
- (3) Except as provided in paragraph (2), it shall be a prima facie violation of T.C.A. § 63-7-115(a)(1)(C) and (F) for an Advanced Practice Nurse having proper authority to prescribe, or the APN's licensed supervisee and pursuant to appropriate protocols or orders, to prescribe or dispense any drug to any individual for whom the Advanced Practice Nurse with proper authority to prescribe, or the APN's licensed supervisee and pursuant to appropriate protocols or orders, has not complied with the provisions of this rule based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.
- (4) Advanced Practice Nurses having proper authority to prescribe, who elect to dispense medication for remuneration must comply with all Federal Regulations (21 CFR 1304 through 1308) for the dispensing of controlled substances.

(Rule 1000-04-.09, continued)

- (5) Non-controlled drugs are to be dispensed in an appropriate container labeled with at least, the following:
 - (a) Patient's name.
 - (b) Date.
 - (c) Complete directions for usage.
 - (d) The name and address of the Advanced Practice Nurse having proper authority to prescribe.
 - (e) A unique number, or the name and strength of the medication.
- (6) Whenever dispensing takes place, appropriate records shall be maintained. A separate log must be maintained for controlled substances dispensing.
- (7) Whenever prescribing takes place, written or electronic prescription orders shall be prepared pursuant to T.C.A. § 63-7-123(b)(3).
- (8) It is not the intention of this Rule to interfere with the individual Advanced Practice Nurses, having proper authority to prescribe, and their appropriate use of professional samples, nor is it to interfere in any way with the rights of Advanced Practice Nurses, who have proper authority to prescribe, to directly administer drugs or medications to any patient.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 53-11-301, 63-7-115, 63-7-123, 63-7-126, and 63-7-207.
Administrative History: Original rule filed March 21, 2005; effective June 4, 2005.

1000-04-.10 TAMPER-RESISTANT PRESCRIPTIONS.

- (1) Purpose.

This rule is designed to implement the law requiring that licensed advanced practice nurses have all written, typed, or computer-generated prescriptions issued on tamper-resistant prescription paper.

- (2) Definitions.

The following definitions are applicable to this rule:

- (a) "Drug" shall have the same meaning as set forth in T.C.A. § 63-10-204(16).
- (b) "Prescriber" means an individual licensed in Tennessee as a medical doctor, podiatrist, advanced practice nurse with a certificate of fitness to prescribe, dentist, optometrist, osteopathic physician, or physician's assistant.
- (c) "Prescription order" shall have the same meaning as set forth in T.C.A. § 63-10-204(34).
- (d) "Tamper-resistant prescription" means a written prescription order with features that are designed to prevent unauthorized copying, erasure, modification, and use of counterfeit prescription forms.

- (3) Tamper-Resistant Prescription Requirements.

(Rule 1000-04-.10, continued)

- (a) A prescriber shall ensure that all handwritten, typed, or computer-generated prescription orders are issued on tamper-resistant prescriptions. Tamper-resistant prescriptions shall contain the following features:
 - 1. Either a void or illegal pantograph or a watermark designed to prevent copying;
 - 2. Either quantity check-off boxes with refill indicators or a uniform, non-white background color designed to prevent erasure or modification; and
 - 3. Security features and descriptions listed on the prescriptions designed to prevent use of counterfeit forms.
- (4) Security Measures and Recordkeeping.
 - (a) Each prescriber shall undertake adequate safeguards and security measures to ensure against loss, improper destruction, theft, or unauthorized use of the tamper-resistant prescriptions in the prescriber's possession.
- (5) Use of Tamper-Resistant Prescriptions.
 - (a) Facsimile Prescription Transmission.
 - 1. Prescriptions sent by facsimile transmission are not required to be placed on tamper-resistant prescription paper.
 - 2. If a prescriber transmits a prescription order to a pharmacy by facsimile transmission, the prescriber or someone designated by the prescriber shall document in the patient's medical record the name of the drug, strength, and quantity prescribed. The prescriber may, but is not required to, document the means by which the prescription was transmitted.
 - (b) Electronic Prescription Transmission.
 - 1. Prescriptions sent by electronic transmission are not required to be placed on tamper-resistant prescription paper.
 - 2. If a prescriber transmits a prescription order to a pharmacy by electronic transmission, the prescriber shall document the prescription in the patient's file and in accordance with the applicable laws and rules for each of the prescribers' respective professions as well as applicable federal laws and rules. The prescriber may, but is not required to, document the means by which the prescription was transmitted.

Authority: Chapter 1035 of the Public Acts of 2008 and T.C.A. §§53-10-401, 63-7-123(b)(3), and 63-7-207. [effective October 1, 2008 for TennCare prescriptions and July 1, 2009 for non-TennCare prescriptions]. **Administrative History:** Public necessity rule filed June 25, 2009; effective through December 7, 2009. Public necessity rule filed June 25, 2009 expired; on December 8, 2009, the rule reverted to its prior status. Emergency rule filed December 21, 2009; effective through June 19, 2010. Original rule filed March 22, 2010; effective June 20, 2010.

1000-04-.11 MINIMUM DISCIPLINE FOR OPIOID PRESCRIBING.

- (1) If the board or committee finds that its licensee has prescribed, dispensed, or administered opioids in a manner that violates the board's or committee's statutes or rules (for example, by

(Rule 1000-04-.11, continued)

prescribing in a manner that constitutes gross healthcare liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence), the board or committee shall make a finding that the licensee engaged in a significant deviation or pattern of deviation from sound medical judgement. For purposes of such a finding, sound medical judgment is the equivalent to the standard of care as defined in T.C.A. § 63-1-122.

- (2) Having made such a finding, the minimum discipline that the board or committee assesses shall include the following:
 - (a) Reprimand;
 - (b) Successful completion of a board or committee approved intensive continuing education course or program regarding treatment with opioids;
 - (c) A restriction against prescribing opioids for at least six (6) months, and until successful completion of the required continuing education;
 - (d) One or more Type A civil penalties;
 - (e) Proof to the licensee's board or committee that they have notified any physicians, podiatrists, advanced practice registered nurses, or physician assistants with whom they collaborate of the discipline; and
 - (f) Where the licensee is a physician or podiatrist, a restriction against collaborating with any advanced practice registered nurses or physician assistants for issuing opioids during the period in which the licensee is restricted from prescribing opioids.
- (3) The prescribing boards and committee recognize that a higher level of minimum discipline is required for those licensees who have been disciplined for opioid-related prescribing violations but continue to violate the standard of care. As set out in paragraph (1) of this rule, the following findings are synonymous, though the boards or committee may have used one or more sets of language to describe a violation. If a licensee commits an order violation in which the prior order contains one or more of the following findings, the licensee has committed an opioid-related order violation for purposes of paragraph (5) of this rule:
 - (a) That the licensee had prescribed, dispensed, or administered opioids in a manner that constituted gross healthcare liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence;
 - (b) That the licensee engaged in a significant deviation or pattern of deviation from sound medical judgement related to the issuance of opioids;
 - (c) That the standard of care related to the issuance of opioids was violated;
 - (d) That the licensee had dispensed, prescribed or administered opioids not in the course of professional practice, or not in good faith to relieve pain and suffering or not to cure an ailment, physical infirmity or disease;
 - (e) That the licensee was unfit or incompetent by reason of negligence, habits or other cause related to the licensee's prescribing or issuance of opioids; or
 - (f) That the licensee violated the rules of the licensing entity with regard to prescribing or issuance of opioids.
- (4) If within one (1) year from the date a licensee's opioid-prescribing privileges are reinstated, having been restricted by an opioid-related order, that licensee's board or committee finds

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that, during that year the licensee had prescribed, dispensed, or administered opioids in a manner that violates the board's or committee's statutes or rules (for example, by prescribing in a manner that constitutes gross healthcare liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence), the board or committee shall make a finding that the licensee re-engaged in a significant deviation or pattern of deviation from sound medical judgement such that they are a repeat offender. For purposes of such a finding, sound medical judgment is the equivalent to the standard of care as defined in T.C.A. § 63-1-122.

- (5) If the licensee commits an opioid-related order violation within one year of the opioid-related order, or if the licensee is found to be a repeat offender, the minimum discipline that the board or committee assesses shall include the following:
 - (a) Probation;
 - (b) Successful completion of a practice monitoring program which shall include at a minimum:
 1. Board or committee approval of the monitor or monitoring program;
 2. Quarterly reports to the board or committee which include the practice monitor's findings with regard to the licensee's:
 - (i) Non-opioid prescribing practices;
 - (ii) Medical record keeping;
 - (iii) Pain management;
 - (iv) Opioid treatment practices—where the practice monitoring is longer than the restriction against prescribing opioids; and
 - (v) Compliance with the practice monitor's recommendations, including completion of any additional education recommended by the practice monitor;
 - (c) A restriction against prescribing opioids for twice the amount of time that was assessed in the initial board or committee order, and for no less than one (1) year;
 - (d) One or more Type A civil penalties totaling at least twice the amount that was assessed in the initial board or committee order;
 - (e) Proof to the licensee's board or committee that they have notified any physicians, podiatrists, advanced practice registered nurses, or physician assistants with whom they collaborate of the discipline; and
 - (f) Where the licensee is a physician or podiatrist, a restriction against collaborating with any advanced practice registered nurses or physician assistants for issuing opioids during the period in which the licensee is restricted from prescribing opioids.
- (6) Nothing in this rule shall prohibit the board or committee from taking action in excess of the minimum disciplinary action outlined herein. Each case shall be judged independently and may result in additional discipline including other restrictions or a higher level of discipline, including revocation, where appropriate. Further, nothing in this rule shall prohibit the board or committee from taking disciplinary action against a licensee based on a finding that the

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licensee violated the practice act in manners additional to those outlined in paragraph (1) above, suggesting a need for a higher level of discipline.

Authority: T.C.A. § 63-1-162. **Administrative History:** Emergency rules filed March 29, 2019; effective through September 25, 2019.