

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-06-03
PROBATIONARY PERIODS**

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1240-06-03-.01 NEWLY LICENSED MANAGERS.

- (1) When a manager is awarded a facility on a permanent or temporary basis for the first time, he must serve a consecutive six-month performance probationary period, during which he is not eligible to bid on another facility. If, during this probationary period, the manager violates any provision as specified in chapter 1240-06-03-.02(1) or there is evidence that the manager does not have the ability to effectively manage the facility, the Agency may remove the manager from the vending facility. After the removal, the Agency will determine whether or not to proceed with termination of license, require additional training, or allow the manager's name to be placed on the Ready-for-Employment List.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), and 71-4-604(c); 34 C.F.R. § 395 et seq., 34 C.F.R. § 395.7(b) and (c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-06-03-.02 DISCIPLINARY PROBATIONS.

- (1) Established managers may be placed on probation for disciplinary purposes when the Agency determines that the vending facility is not being operated in accordance with:
 - (a) The rules and regulations governing the program;
 - (b) The terms and conditions of the permit;
 - (c) The terms and conditions of the IOFA;
 - (d) Policies and procedures as specified in the TBE Operations Manual;
 - (e) State law, the violation of which is, or reasonably may, result in financial or physical harm to the customers of the facility or other persons, the Department or the manager; or
 - (f) Regulations of other agencies of the State of Tennessee which have regulatory authority directly related to the operation of a vending facility.
- (2) Notice of disciplinary probation shall be sent to the manager in writing. Such notices may be hand delivered or posted in the US Mail. The probationary period shall be for a mandatory thirty (30) days. The notice of disciplinary probation must state the reason(s) for probation;

(Rule 1240-06-03-.02, continued)

steps to be taken, if any, to avoid termination; and the manager's right to appeal the Agency's action pursuant to Chapter 1240-06-11 of these rules.

- (a) If hand delivered, the TBE Consultant/Specialist shall document that the notice has been received by the manager as evidenced by a signed acknowledgment of receipt. The thirty (30) day probationary period begins after the time period for an appeal pursuant to Chapter 1240-06-11 has run.
- (b) If a manager is not available for the TBE Consultant/Specialist to hand deliver the disciplinary notice or doing so is not cost effective, TBE may choose to mail the notice by US Mail, postage paid. TBE personnel will execute a certificate of mailing indicating the actual date of mailing, to be maintained with a file copy of the disciplinary notice. The thirty (30) day probationary period begins after the time period for an appeal pursuant to Chapter 1240-06-11 has run.
- (3) Managers who are placed on probation pursuant to paragraphs (1) and (2) of this section will not be permitted to bid.
- (4) If a manager is placed on disciplinary probation for the same offense for the third time during a twelve (12) month period, the manager's license will be terminated. This subsection will not be applicable to violations of chapter 1240-6-9-.03(1).

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.7 (b) and (c). **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed February 28, 1963; effective May 16, 1983. Amendment filed May 25, 1983; effective June 24, 1983. Repeal and new rule filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Amendment filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005. Amendments filed May 25, 2017; effective August 23, 2017.

1240-06-03-.03 REPEALED

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Repeal and new rule filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.04 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Repeal and new rule filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.05 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978.

(Rule 1240-06-03-.05, continued)

Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.06 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1980; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.07 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.08 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.09 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

1240-06-03-.10 REPEALED.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.