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Sequence Number: 07-05-11  
 Notice ID(s): 1642  
 File Date: 07/07/2011

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

**Agency/Board/Commission:** Tennessee Department of Mental Health  
**Division:** Administrative Services Division  
**Contact Person:** Kurt Hippel  
 425 Fifth Avenue North  
 3<sup>rd</sup> Floor, Cordell Hull Building  
**Address:** Nashville, TN 37243  
**Phone:** 615-532-9439  
**Email:** Kurt.Hippel@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

**ADA Contact:** Gwen Hamer  
 425 Fifth Avenue North  
 5<sup>th</sup> Floor, Cordell Hull Building  
**Address:** Nashville, TN 37243  
**Phone:** 615-532-6510  
**Email:** Gwen.Hamer@tn.gov

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

Address 1:	425 Fifth Avenue North		
Address 2:	3 <sup>rd</sup> Floor, Cordell Hull Building		
City:	Nashville		
Zip:	37243		
Hearing Date:	08/30/11		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0940-02-03	Personnel Conduct toward Patients and Residents

<b>Rule Number</b>	<b>Rule Title</b>
0940-02-03-.01	Purpose
0940-02-03-.02	Justified Employee Conduct
0940-02-03-.03	Resident or Patient Abuse by Employees
0940-02-03-.04	Other Kinds of Mistreatment of Residents or Patients by Employees
0940-02-03-.05	Presumption of Failure to Perform Duties

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

#### Repeals

Chapter 0940-02-03 Personnel Conduct toward Patients and Residents is repealed in its entirety.

Authority: T.C.A. §§ 4-4-103, 33-1-202, 33-1-203, 33-1-302, 33-1-303, 33-1-305, and 33-1-309.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 7-5-11

Signature: [Handwritten Signature]

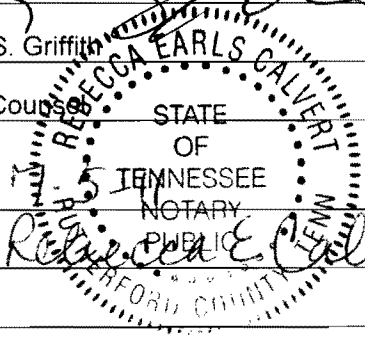
Name of Officer: Zachary S. Griffith

Title of Officer: General Counsel

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: [Handwritten Signature]

My commission expires on: \_\_\_\_\_



My commission expires 6/3/2012

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Filed with the Department of State on: 7/7/11

[Handwritten Signature]

Tre Hargett  
Secretary of State

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FORMIFICATIONS

**Regulatory Flexibility Addendum**

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The repeal of Rule Chapter 0940-02-03 and the issuing of a TDMH policy in place of the rule will impact RMHI employees, volunteers and contractors. Contractors providing services at the RMHI may be small businesses. If found guilty of engaging in conduct prohibited by the policy, the TDMH may discipline employees, up to and including termination, while contractors and volunteers may be subject to separation from service. Depending on the severity of the offense, an employee, volunteer or contractor may be reported to the Department of Health Abuse Registry and may lose the opportunity for employment.

## **Impact on Local Governments**

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The repeal of Rule Chapter 0940-02-03, Personnel Conduct Toward Patients and Residents, will have no impact on local governments.