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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

**Agency/Board/Commission:** Division of Health Related Boards  
**Division:** Department of Health  
**Contact Person:** Mary Katherine Bratton, Chief Deputy General Counsel  
**Address:** 665 Mainstream Drive, Nashville, Tennessee 37243  
**Phone:** (615) 741-1611  
**Email:** Mary.Bratton@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:** ADA Coordinator  
710 James Robertson Parkway,  
**Address:** Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243  
**Phone:** (615) 741-6350  
**Email:** Tina.M.Harris2@tn.gov

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

Address 1:	Metro Center
Address 2:	665 Mainstream Drive, Iris Conference Room
City:	Nashville
Zip:	37228
Hearing Date :	04/03/18
Hearing Time:	10:00 A.M. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

\_\_\_\_\_

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

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1200-10-03	Drug Testing and Reporting
Rule Number	Rule Title
1200-10-03-.01	Time of Reporting
1200-10-03-.02	Reporting Requirements



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://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines\\_September2016.pdf](http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf).

Chapter 1200-10-03  
Drug Testing and Reporting  
New Rule Chapter

Table of Contents

1200-10-03-.01 Time of Reporting  
1200-10-03-.02 Reporting Requirements  
1200-10-03-.03 Disciplinary Action Reporting

Authority: T.C.A. § 50-9-115.

Rule 1200-10-03-.01. Time of Reporting. When an employer is required to report a healthcare practitioner's refusal to submit to a drug test or positive drug test result, such report shall be made in writing to the Tennessee Department of Health, Office of Investigation, within ten (10) business days from the third day allowed the healthcare practitioner to produce a lawful prescription or report to a substance abuse peer assistance program.

Authority: T.C.A. §§ 50-9-115, 63-1-101, 63-1-150, 63-1-160 and 68-1-101.

Rule 1200-10-03-.02. Reporting Requirements.

- (1) The employer's report to the Tennessee Department of Health, Office of Investigation shall:
  - (a) be in writing;
  - (b) detail the date the drug screen was refused or administered;
  - (c) in the case of a positive result, contain a certified copy of the drug screen results and verification;
  - (d) contain a certified copy of the notification given to the healthcare practitioner; and
  - (e) the last known address of the healthcare practitioner.
- (2) For purposes of this rule, "certified" means accompanied by an affidavit of the custodian or other qualified person certifying, in accordance with Tennessee Rules of Evidence 902(11), that it was produced as a regularly conducted activity. Such a certifying affidavit form can be provided by the Department upon request.

Authority: T.C.A. §§ 50-9-115, 63-1-160 and 68-1-101.

Rule 1200-10-03-.03 Disciplinary Action Reporting.

- (1) The chief administrative official for each hospital or other health care facility, shall make a report if disciplinary action is taken concerning any licensed person, where that action is related to professional ethics, professional incompetence or negligence, moral turpitude, or drug or alcohol abuse, in writing, within sixty (60) days of the date of the action. The hospital or health care facility shall make available to the Tennessee Department of Health, Office of Investigation, all records pertaining to the disciplinary action taken.
- (2) Where an employer reports a refused or positive drug screen pursuant to this section, the requirement to report a disciplinary action shall be satisfied if the report also contains a statement of the disciplinary action taken.
- (3) Notwithstanding the provisions of paragraph (2) above, all other provisions regarding disciplinary reporting remain in effect.

Authority: T.C.A. §§ 63-1-160, 68-1-101 and 68-11-218.

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: 11/31/18

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton

Chief Deputy General Counsel

Title of Officer: Department of Health

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

Notary Public Signature: Suzanne Mechkowski

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



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Filed with the Department of State on: 11/31/18

Tre Hargett

Tre Hargett  
Secretary of State

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