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Sequence Number: 01-17-13
 Rule ID(s): 5364
 File Date: 1/22/13
 Effective Date: 4/22/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Board of Medical Examiners Advisory Committee for Acupuncture
Division:	
Contact Person:	Alex Munderloh, Assistant General Counsel
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0880-12	General Rules and Regulations Governing the Practice of Acupuncturists
Rule Number	Rule Title
0880-12-.06	Fees

(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>)

Rule 0880-12-.06 Fees is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended the new paragraph (3) shall read:

	Acupuncturist	Acupuncture Detoxification Specialist
(3) Biennial renewal fee to be submitted every two (2) years when certification renewal is due.	\$400.00	\$ 50.00

Authority: T.C.A. §§ 63-6-1004 and 63-6-1009.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Charmaine Jamieson	X				
Dr. Jane Abraham	X				
Jill L. Kelly	X				
Peggy Watson				X	
Serina M. Scott	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners Committee for Acupuncture on 08/20/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Zanolli, MD	X				
Subhi Ali, MD	X				
Dennis Higdon, MD	X				
Neal Beckford, MD	X				
Keith Lovelady, MD	X				
Clinton Allen Musil, MD	X				
Patricia Eller	X				
Barbara Outhier	X				
Jeff P. Lawrence, MD				X	
Nina Yeiser				X	
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners on 09/10/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/07/12

Rulemaking Hearing(s) Conducted on: (add more dates). 08/20/12

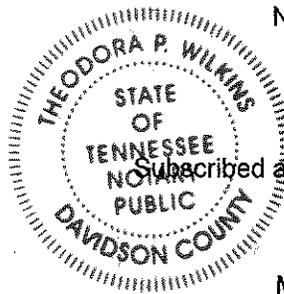
Date: 9-27-12

Signature: *Alex Munderloh*

Name of Officer: Alex Munderloh

Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 9/27/12

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/3/15th

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

REC Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
1-16-13
Date

Department of State Use Only

Filed with the Department of State on: 1/22/13

Effective on: 4/22/13

Tre Hargett
Tre Hargett
Secretary of State

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Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no members of the public present and no written comments were received.

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.

- (1) This rule does not overlap, duplicate, or conflict with any federal, state, or local governmental rules.
- (2) This rule exhibits clarity, conciseness, and a lack of ambiguity.
- (3) This rule does not have ongoing compliance or reporting requirements for small businesses.
- (4) This rule does not necessitate the establishment of performance standards for small businesses.
- (5) There are no unnecessary entry barriers or other effects in the proposed rule that would stifle entrepreneurial activity, curb innovation or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

1. **Name of Board, Committee or Council:** Tennessee Board of Medical Examiners Advisory Committee on Acupuncturists
2. **Rulemaking hearing date:** August 20, 2012
3. **Types of small businesses that will be directly affected by the proposed rules:** Generally, the amendment does not affect small businesses. However, the amendment may affect small businesses that employ acupuncturists or that are run by acupuncturists.
4. **Types of small businesses that will bear the cost of the proposed rules:** The proposed rules will not result in any costs to small businesses. The only cost of the proposed rules is the decreased revenue to the Advisory Committee on Acupuncturists. However, the Committee is able to absorb that cost.
5. **Types of small businesses that will directly benefit from the proposed rules:** This rule change will decrease costs by one hundred dollars (\$100) for the following: 1) small businesses that employ acupuncturists and pay the biennial renewal fee on behalf of those particular employees and 2) acupuncturists who run small businesses in their area of practice.
6. **Description of how small business will be adversely impacted by the proposed rules:** None
7. **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:** There are no less burdensome alternatives to the proposed rules.

Comparison of the proposed rule with federal or state counterparts:

Federal - None

State - None

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 amendment to this rule will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule amendment reduces the biennial renewal fee for acupuncturists from five hundred dollars (\$500) to four hundred dollars (\$400).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There are no federal laws or regulations nor any state law or regulations mandating promulgation of this rule amendment. Authority to establish categories and amounts of fees is given in § 63-6-1004(a)(4).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Those affected by this rule amendment are licensed acupuncturists in Tennessee.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The probable decrease in revenues will be approximately twelve thousand three hundred dollars (\$12,300). There are currently 123 licensed acupuncturists in Tennessee. The biennial fee reduction of one hundred dollars (\$100) multiplied by the 123 licensees equals \$12,300.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Alex Munderloh, Assistant General Counsel, Tennessee Department of Health

Jason Hill, Board of Medical Examiners Advisory Committee for Acupuncture Administrator, Tennessee Department of Health

Jill L. Kelly, Chairperson for the Board of Medical Examiners Advisory Committee for Acupuncture

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alex Munderloh, Assistant General Counsel, Tennessee Department of Health

Jason Hill, Board of Medical Examiners Advisory Committee for Acupuncture Administrator

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Alex Munderloh, Assistant General Counsel, Department of Health, 220 Athens Way, Suite 210, Nashville, TN 37243, (615) 741-1611, Alex.Munderloh@tn.gov; Jason Hill, Board of Medical Examiners Advisory Committee for Acupuncture Administrator, Health Related Boards, 227 French Landing Dr., Suite 300, Nashville, TN 37243, (615) 532-5127, Jason.D.Hill@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

0880-12-.06 FEES. All fees provided for in this rule are non-refundable.

	Acupuncturist	Acupuncture Dextoxification Specialist
(1) Application fee to be submitted at the time of application.	\$500.00	\$ 75.00
(2) Initial certification fee to be submitted at the time of application.	\$250.00	\$ 25.00
(3) Biennial renewal fee to be submitted every two (2) years when certification renewal is due.	\$500.00	\$ 50.00
(3) <u>Biennial renewal fee to be submitted every two (2) years when certification renewal is due.</u>	\$400.00	\$ 50.00
(4) Late renewal fee.	\$100.00	\$ 50.00
(5) Certification reinstatement and / or restoration fee.	\$100.00	\$ 50.00
(6) Duplication of Certificate fee.	\$ 25.00	\$ 10.00
(7) Biennial state regulatory fee to be submitted at the time of application.	\$ 10.00	\$ 10.00
(8) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Advisory Committee for Acupuncture.		

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-6-101, 63-6-1004, 63-6-1005, and 63-6-1009. *Administrative History:* Original rule filed October 18, 2002; effective January 1, 2003. Amendment filed January 5, 2004; effective March 20, 2004.

0880-12-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.
- (2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Committee and Board designee who have both reviewed the completed application and determined that the applicant has met all the requirements for certification, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Committee or Board subsequently makes a good faith determination that the applicant has not met all the requirements for certification, renewal or reinstatement and therefore denies, limits, conditions or restricts certification, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation, conditioning or restricting of certification.