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Phone: 615-741-2650
Fax: 615-741-5133
Email: sos.information@state.tn.us

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Sequence Number: 02-17-10
Rule ID(s): 4638
File Date: 02/22/2010
Effective Date: 05/23/2010

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Board of Electrolysis Examiners
Division:	
Contact Person:	Mona Nicole Jean-Baptiste
Address:	Office of General Counsel Department of Health 220 Athens Way, Suite 210 Plaza I, Metro Center Nashville, TN
Zip:	37243
Phone:	(615)741-1611
Email:	Mona.N.Jean-Baptiste@tn.gov

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. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0540-01	General Rules Governing Electrology, Electrologists and Electrology Instructors
Rule Number	Rule Title
0540-01-.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>)

Substance of Proposed Rules

Chapter 0540-01
General Rules Governing Electrology, Electrologists and Electrology Instructors

Amendments

Rule 0540-01-.06 Fees, is amended by deleting the language of subparagraph (4) (f) in its entirety and replacing it with the following:

(f) License Renewal-Biennial	1,020.00	1,120.00
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Authority: T.C.A. §§ 63-26-108 and 63-26-109.

* 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)
Richard A. Collier	X				
Jewel M. Dedmon	X				
Dorothy T. Goode	X				
Eldon Pippin				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Electrolysis Examiners (board/commission/ other authority) on 01/15/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/30/08

Notice published in the Tennessee Administrative Register on: 11/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 01/15/09

RECEIVED
2010 FEB 22 PM 3:34
SECRETARY OF STATE
PUBLICATIONS

Date: January 16, 2009

Signature: Mona N. Jean-Baptiste

Name of Officer: Mona Nicole Jean-Baptiste

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: January 16, 2009

Notary Public Signature: [Signature]

My commission expires on: 1/23/2010



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.

[Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
2-18-10
Date

Department of State Use Only

Filed with the Department of State on: 2/22/10

Effective on: 5/23/10

[Signature]
Tre Hargett

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.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

REGULATORY FLEXIBILITY ANALYSIS

(1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

(a) Instructors of electrology; and

(b) Schools of electrology that cover the cost of instructor renewal.

(2) Identification and estimate of the number of small businesses subject to the proposed rule:

The proposed rule changes would affect all instructors of electrology and schools of electrology that cover the cost of instructor renewals. There are currently three (3) licensed schools of electrology and four (4) persons with active instructor licenses.

(3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed amendments which have economic impact on small businesses have no increased or new reporting, recordkeeping and other administrative costs that are required for compliance.

(4) Statement of the probable effect on impacted small businesses and consumers:

(a) The apparent increase in the renewal fee for electrology instructors will come directly out of the "bottom line" of the electrologist instructors and any schools of electrology that pay for instructor renewals.

(5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

There is no less burdensome means to accomplish the purpose of this rule amendment.

(6) Comparison of the proposed rule with any federal or state counterparts:

Federal: The Board is not aware of any federal counterparts. Electrologists are not licensed by the federal government.

State: The Board's proposed fees are within the range of other health related licensing boards in Tennessee which have less than one hundred (100) licensees.

(7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting electrology instructors from paying a renewal fee will lead to an unfair result as electrologists who are not instructors still must pay a fee for renewal.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 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;

Rule 0540-1-.06, Fees, sets the various fees and costs applicable to electrologists. The amendments to Rule 0540-1-.06 increases the renewal fee for electrology instructors from \$680.00 to \$1120.00 in subsection (4)(f) in order to address the fact that administrative staff had only been charging the renewal fee listed under the "instructor" column rather than the regular renewal fee for electrologists plus the instructor renewal fee as the Board intended.

- (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 state or federal laws or regulations that mandate the aforementioned amendment.

- (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;

Instructors of electrolysis and Schools of electrology that cover the cost of instructor renewal.

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

The Department of Health is unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (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 increase to the state revenues will be minimal.

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

Karen Robinson, Administrator for the Board of Electrolysis Examiners and I, Mona Nicole Jean-Baptiste, as Counsel for the Committee, possess substantial knowledge and understanding of these rules

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

I, Mona Nicole Jean-Baptiste, will explain these rules at any scheduled meetings of the committees.

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

I may be reached at Department of Health, Office of General Counsel, Plaza I, Suite 210, 220 Athens Way, Nashville, Tennessee; Ph: 615.741.1611.

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



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
OFFICE OF GENERAL COUNSEL

220 Athens Way, Suite 210
Nashville, Tennessee 37243
Telephone: (615) 741-1611
Facsimile: (615) 532-3386 or (615) 532-7749

PHIL BREDESEN
GOVERNOR

SUSAN R. COOPER, MSN, RN
COMMISSIONER

TO: TRE HARGETT
Secretary of State

FROM: MONA N. JEAN-BAPTISTE
Assistant General Counsel

DATE: 21 January 2009

SUBJECT: Comments made at the rule making hearing for Rulemaking Hearing Rule Numbers 0540-01 General Rules Governing the Electrology, Electrologists and Electrology Instructors

No members of the public attended the rule making hearing on January 15, 2009 and no comments written or oral were received prior to or during the rule making hearing.



Mona N. Jean-Baptiste, Presiding Officer
Office of General Counsel
Tennessee Department of Health

(Rule 0540-1-.05, continued)

- (e) To the extent known by the applicant, the circumstances involved in any pending investigation of licensure by any state.
- (19) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (20) Where necessary, all required documents shall be translated into English. Such translation and original document must be certified as to authenticity by the issuing source.
- (21) Application review and licensure decisions shall be governed by Rule 0540-1-.07.
- (22) Personal resumes are not acceptable and will not be reviewed.
- (23) The burden is on the applicant to prove by a preponderance of the evidence that he possesses the qualifications for licensure by examination or reciprocity.
- (24) The licensure fee must be received in the Board's administrative office on or before the 30th day from receipt of notification that the license fee is due. Failure to comply will result in the application file being closed.
- (25) A license will be issued after all requirements, including payment of a license fee pursuant to Rule 0540-1-.06, have been met.
- (26) Information and application for the written examination shall be obtained from the testing agency pursuant to Rule 0540-1-.08(1)(a)2.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-111, 63-26-112, 63-26-113, 63-26-115, 63-26-119, 63-26-122, 63-26-123, and 63-26-1-125. **Administrative History:** Original rule file May 3, 1976; effective June 2, 1976. Repeal filed September 29, 1989; effective November 13, 1989. New rule filed December 28, 1995; effective March 12, 1996. Amendment filed September 11, 1998; effective November 25, 1998. Amendment filed August 18, 2006; effective November 1, 2006. Amendment filed ; effective .

0540-1-.06 FEES.

- (1) The fees are as follows:
 - (a) Application Fee - A non-refundable fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.
 - (b) Endorsement/Verification - A non-refundable fee paid for each certification, verification, or endorsement of an individual's record for any purpose.
 - (c) Examination (Practical) fee - A non-refundable fee to be paid each time an applicant requests to sit for any initial or retake examination.
 - (d) License fee - A non-refundable fee to be paid by all applicants, except those seeking licensure by reciprocity, prior to the issuance of the initial license.
 - (e) License Renewal fee - A non-refundable fee to be paid by all license holders. This fee also applies to individuals who reactivate a retired or lapsed license.

(Rule 0540-1-.06, continued)

- (f) Reciprocity License fee - A non-refundable fee to be paid at the time an application for licensure is filed by reciprocity (licensed in another state) applicants and by applicants for licensure without examination and without licensure in another state. The fee is in addition to the application fee.
 - (g) Reinstatement fee - A non-refundable fee to be paid each time an individual requests to reinstate an expired license.
 - (h) Replacement License fee - A non-refundable fee to be paid when a request is made for a replacement when the initial license has been lost or destroyed.
 - (i) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees shall be established, reviewed and changed by the Board.
- (3) 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. 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 Tennessee Board of Electrolysis Examiners.

(4) Fee Schedule:	Electrologist	Instructor
(a) Application	\$300.00	\$350.00
(b) Endorsement/Verification	50.00	50.00
(c) Examination - Practical or Re-evaluation	200.00	200.00
(d) License - Initial	200.00	200.00
(e) Reinstatement	200.00	200.00
(f) License Renewal -Biennial	1,020.00	<u>1,120.00</u> 680.00
(g) Reciprocity License fee	300.00	300.00
(h) Replacement license	50.00	50.00
(i) State Regulatory - Biennial	10.00	10.00

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-1-112, 63-1-114, 63-26-108, 63-26-109, 63-26-111, 63-26-113, 63-26-115, 63-26-116, 63-26-117, 63-26-119, and 63-26-120.
Administrative History: Original rule file May 3, 1976; effective June 2, 1976. Repeal filed September 29, 1989; effective November 13, 1989. New rule filed December 28, 1995; effective March 12, 1996. Amendment filed September 11, 1998; effective November 25, 1998. Amendment filed March 19, 2001; effective June 2, 2001. Amendment filed October 28, 2002; effective January 11, 2003. Amendment filed March 18, 2003; effective June 1, 2003. Amendment filed August 18, 2006; effective November 1, 2006. Amendment filed ; effective .

0540-1-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.