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 Rule ID(s): 6146
 File Date: 3/23/16
 Effective Date: 6/21/16

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Medical Examiners Committee on Physician Assistants
Division:	
Contact Person:	Mary Katherine Bratton, Deputy General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee 37243
Phone:	(615) 741-1611
Email:	Mary.Bratton@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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0880-03	General Rules Governing the Practice of a Physician Assistant
Rule Number	Rule Title
0880-03-.06	Fees
0880-03-.12	Continuing Education

(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>)

Chapter 0880-03
General Rules Governing the Practice of a Physician Assistant

Amendments

Rule 0880-03-.06 Fees is amended by deleting subparagraph (3)(b) in its entirety and substituting the following language, so that as amended, the new subparagraph (3)(b) shall read as follows:

(3) (b) Biennial Licensure Renewal Fee \$175.00

Authority: T.C.A. §§ 63-1-103, 63-1-106, 63-1-108, 63-1-112, 63-19-104; 63-19-105, 63-19-113.

Rule 0880-03-.12 Continuing Education is amended by deleting subparagraph (1)(a) and its parts in their entirety and substituting the following language, so that as amended, the new subparagraph (1)(a) shall read:

(1) (a) All physician assistants must, within a two (2) year period prior to the application for license renewal, complete one hundred (100) hours of continuing medical education satisfactory to the Committee. At least fifty (50) hours shall be obtained in certified medical education Category I and at least two (2) Category I hours of the required continuing education hours shall address education related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Committee.

Authority: T.C.A. §§ 63-6-101, 63-19-104, 63-19-105.

* 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)
Omar Nava	X				
Benjamin L. Hux	X				
Bret Reeves	X				
Donna Lynch	X				
Ann Arney	X				
James Montag, Jr.	X				
Beverly J. Gardner				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 on Physician Assistants (board/commission/ other authority) on 07/10/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Dennis Higdon, M.D.	X				
Michael John Baron, M.D.				X	
Neal Beckford, M.D.	X				
Deborah Christiansen, M.D.	X				
Clinton A. Musil, Jr., M.D.				X	
Patricia Eller	X				
Barbara Outhier	X				
Nina Yeiser	X				
Melanie Blake, M.D.	X				
W. Reeves Johnson, Jr. MD	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 (board/commission/ other authority) on 07/21/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

Board of Medical Examiners Committee on Physician Assistants
Rules 0880-03-.06 and 0880-03-.12
General Rules Governing the Practice of a Physician Assistant
Fees and Continuing Education

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/01/15 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 07/10/15 (mm/dd/yy)

Date: 9/28/15

Signature: *Mary Katherine Bratton*

Name of Officer: Mary Katherine Bratton

Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9-28-15

Notary Public Signature: *Suzanne Mechkowski*

My commission expires on: _____

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.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

3/3/2016

Date

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Filed with the Department of State on: 3/23/16

Effective on: 6/21/16

Tre Hargett

Tre Hargett
Secretary of State

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 public comments, either written or oral.

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) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, and local government rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

The proposed rule amendments establish clarity, conciseness, and lack of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

The proposed rule amendments do not affect compliance and/or reporting requirements for small businesses.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

The proposed rule amendments do not affect schedules or deadlines for compliance reporting requirements for small businesses.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

The proposed rule amendments do not consolidate or simplify compliance or reporting requirements for small businesses.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The proposed rule amendments do not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The proposed rule amendments do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: *Committee of Physician's Assistants*

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

All licensed physician assistants will be subject to the proposed rule amendments. These licensed physician assistants will bear the benefit of the proposed rule amendments.

- 2. 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 rule amendments do not affect the reporting requirements or other administrative costs for compliance.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

The proposed rule amendments should have little effect on small businesses.

- 4. 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:**

The proposed rule amendments are not burdensome, intrusive, or costly.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: None.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

The proposed rule amendments may not provide exemptions for small businesses.

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 proposed rule amendments should not have a financial impact on local government

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;

The amendment to Rule 0880-03-.06 will reduce the biennial license renewal fee from two-hundred twenty-five dollars (\$225.00) to one hundred seventy-five dollars (\$175.00).

The amendment to 0880-03-.12 will include the requirement that fifty of the one hundred hours must be obtained in Category 1 classes, and will further require that at least two of the required Category I classes must be in prescribing practices. The two hours of prescribing practices is required to comply with Public Chapter No. 430, passed by the 108th General Assembly and signed by the Governor on May 16, 2013.

- (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;

None.

- (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;

The proposed rule amendments will affect licensed physician assistants.

- (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;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

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

Mary Katherine Bratton, Deputy General Counsel, Department of Health.

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

Mary Katherine Bratton, Deputy General Counsel, Department of Health.

- (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

Office of General Counsel, 665 Mainstream Drive, Nashville, Tennessee 37205, (615) 741-1611, Mary.Bratton@tn.gov.

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

None.

(Rule 0880-03-.05, continued)

May 23, 2001. Amendment filed August 6, 2002; effective October 20, 2002. Amendments filed March 17, 2006; effective May 31, 2006.

0880-03-.06 FEES.

- (1) The fees are as follows:
- (a) Application Fee - A fee to be paid by all applicants including those seeking licensure by reciprocity. This fee includes the Initial Licensure Fee and State Regulatory Fee. In cases where an applicant is denied licensure or the application file closes due to abandonment, only the portion pertaining to the Initial Licensure Fee and the portion of the State Regulatory Fee that applies to initial licensure will be refundable.
 - (b) Biennial Licensure Renewal Fee - A non-refundable fee to be paid prior to the issuance of the "artistically designed" license. This fee must be received on or before the expiration date of the license.
 - (c) Initial Licensure Fee - A fee to be paid at the time of application for initial licensure after approval by the Committee on Physician Assistants and the Board of Medical Examiners.
 - (d) Late Renewal Fee - A non-refundable fee to be paid when a license holder fails to renew his license on or before the expiration date on the license. This is an additional fee which must be submitted with the Biennial Licensure Renewal Fee and State Regulatory Fee.
 - (e) Replacement License Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" wall license or renewal license.
 - (f) State Regulatory Fee - A fee to be paid by all individuals at the time of application and with all renewal applications.
 - (g) Temporary Licensure Fee - A non-refundable fee to be paid at the time of application for applicants requesting a temporary license.
- (2) All fees must be submitted to the Committee's administrative office by cashier's check, personal check or money order. Checks or money orders are to be made payable to the Committee on Physician Assistants.

(3) Fee Schedule:	Amount
(a) Application Fee (Total)	\$335.00
1. Application Fee	\$ 75.00
2. Initial Licensure Fee	\$250.00
3. State Regulatory Fee	\$ 10.00
(b) Biennial Licensure Renewal Fee	\$225.00
<u>(b) Biennial Licensure Renewal Fee</u>	<u>\$175.00</u>
(c) Late Renewal Fee	\$ 50.00

(Rule 0880-03-.06, continued)

- (d) Replacement License Fee \$ 25.00
 - (e) State Regulatory (biennial) \$ 10.00
 - (f) Temporary Licensure Fee \$ 50.00
- (4) Total Application Fee must be paid at the time of application.

Authority: T.C.A. §§4-3-1011, 4-5-202, 63-1-103, 63-1-106, 63-1-108, 63-1-112, 63-19-104; 63-19-105, and 63-19-113. **Administrative History:** Original rule filed November 27, 1990; effective January 11, 1991. Repeal and new rule filed August 5, 1993; effective October 18, 1993. Repeal and new rule filed July 7, 1995; effective September 20, 1995. Amendment filed October 14, 1998; effective December 28, 1998. Repeal and new rule filed March 31, 1999; effective July 29, 1999. Amendment filed January 20, 2012; effective April 19, 2012.

0880-03-.07 APPLICATION REVIEW, APPROVAL AND DENIAL.

- (1) An application packet shall be requested from the Committee's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.
- (3) If an application is incomplete when received by the Committee's Administrative Office, or the reviewing Committee member or the Committee consultant determine additional information is required from an applicant before an initial determination can be made, the Committee's administrative office shall notify the applicant of the information required.
 - (a) The applicant shall cause the requested information to be received by the Committee's administrative office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.
 - (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the Committee's administrator. If that occurs, the applicant shall be notified that the Committee will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Committee or the Committee consultant.
- (4) If a reviewing Committee member or the Committee consultant initially determines that a completed application should be denied, limited, conditioned or restricted, a temporary authorization shall not be issued. The applicant shall be informed of the initial decision and that a final determination on the application will be made by the Committee and the Board at their next meetings. If the Committee and the Board ratify the initial denial, limitation, condition or restriction, the action shall become final and the following shall occur:
 - (a) A notification of the denial, limitation, condition or restriction shall be sent by the Committee's Administrative Office by certified mail, return receipt requested. Specific reasons for denial, limitation, condition or restriction will be stated, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.

(Rule 0880-03-.11, continued)

- (1) A person who holds a current license and does not intend to practice as a physician assistant may apply to convert an active license to retired status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license may apply for retired status in the following manner:
 - (a) Obtain, complete, and submit to the Committee's Administrative Office, an affidavit of retirement form.
 - (b) Submit any documentation which may be required to the Committee's Administrative Office.
- (3) License holders whose license has been retired may re-enter active status by doing the following:
 - (a) Submit a written request for license reactivation to the Committee's Administrative Office.
 - (b) Pay the licensure renewal fee and state regulatory fee as provided in Rule 0880-03-.06.
 - (c) Submit satisfactory evidence of compliance with the continuing education requirements of rule 0880-03-.12 for the two (2) year period immediately preceding the date of application for reactivation.
 - (d) If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Committee will require payment of the late renewal fee and past due renewal fee.
- (4) License reactivation applications shall be treated as licensure applications and review decisions shall be governed by Rule 0880-03-.07.

Authority: T.C.A. §§4-5-202, 63-19-104, and 63-19-113. **Administrative History:** Original rule filed August 5, 1993; effective October 18, 1993. Repeal and new rule filed July 7, 1995; effective September 20, 1995. Amendment filed November 13, 1996; effective January 27, 1997. Repeal and new rule filed March 31, 1999; effective July 29, 1999.

0880-03-.12 CONTINUING EDUCATION. All persons licensed as a P.A. must comply with the following continuing education rules as a prerequisite to licensure renewal.

- (1) Continuing Education - Hours Required
 - ~~(a) All physician assistants must, within a two (2) year period prior to the application for license renewal, complete one hundred (100) hours of continuing medical education satisfactory to the Committee.~~
 - (a) All physician assistants must, within a two (2) year period prior to the application for license renewal, complete one hundred (100) hours of continuing medical education satisfactory to the Committee. At least fifty (50) hours shall be obtained in certified medical education Category I and at least two (2) Category I hours of the required continuing education hours shall address education related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the

(Rule 0880-03-.12, continued)

Committee.

- ~~1. At least one (1) Category I hour of the required continuing education hours shall address prescribing practices.~~
 - ~~2. The division of hours between Category I and Category II continuing medical education must be consistent with the requirements of the N.C.C.P.A. as described on the most current N.C.C.P.A. "Continuing Medical Education Logging Form."~~
- (b) The Committee approves a course for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual.
 - (c) The committee may waive or otherwise modify the requirements of this rule in cases where there is retirement or an illness, disability or other undue hardship which prevents a physician assistant from obtaining the requisite number of continuing education hours required for renewal. Requests for waivers or modification must be sent in writing to the Committee prior to the expiration of the renewal period in which the continuing education is due.
- (2) Continuing Education - Proof of Compliance
- (a) All physician assistants must indicate, by their signature on the license renewal form, that they have completed the required number of continuing medical education hours, during whichever of the following two (2) year periods applies to the applicant:
 1. For those certified by the N.C.C.P.A.; the most recent two (2) year period (depending upon the year of initial certification of the applicant by the N.C.C.P.A.) utilized by N.C.C.P.A. to determine whether that person has obtained sufficient continuing medical education hours to maintain his or her professional certification.
 2. For those not certified by the N.C.C.P.A.; the most recent two (2) year period (depending upon the year of birth of the licensee rather than the year of initial certification by the N.C.C.P.A.), which if utilized by the N.C.C.P.A. would determine whether that person would have (had he or she been nationally certified) obtained sufficient continuing medical education hours to maintain his or her professional certification.
 - (b) All physician assistants must retain independent documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Committee during its verification process.
 1. Certificates verifying the licensed individual's completion of the continuing education program(s) consist of any one or more of the following:
 - (i) The National Commission on the Certification of Physician Assistants' "Continuing Medical Education Logging Certificate";

(Rule 0880-03-.12, continued)

- (ii) Certificates must include the following: Continuing education program's sponsor, date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.
 - (iii) An original letter on official stationery from the continuing education program's sponsor indicating date, length in minutes awarded (continuing education units must be converted to clock hours), program title, licensed individual's name, license number and social security number.
- (c) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Committee will request a written description of the training and how it applies to the practice as a physician assistant. If the Committee determines that the training cannot be considered appropriate continuing education, the individual will be given 90 days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (3) Acceptable continuing education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education program must be approved in content, structure and format by the A.M.A., the A.A.P.A., or the N.C.C.P.A.
- (4) Violations
- (a) Any physician assistant who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 0880-03-.15.
 - (b) Any physician assistant who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 0880-03-.15 and may not be allowed to renew licensure.
 - (c) Education hours obtained as a result of compliance with the terms of a Committee or Board order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-6-101, 63-19-104, and 63-19-105. **Administrative History:** Original rule filed August 5, 1993; effective October 18, 1993. Amendment filed August 18, 1994; effective November 1, 1994. Repeal and new rule filed July 7, 1995; effective September 20, 1995. Amendment filed November 13, 1996; effective January 27, 1997. Amendment filed August 13, 1998; effective October 27, 1998. Repeal and new rule filed March 31, 1999; effective July 29, 1999. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed March 9, 2001; effective May 23, 2001. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed May 18, 2007; effective August 1, 2007.

0880-03-.13 PROFESSIONAL ETHICS. The Committee on Physician Assistants may utilize as guidelines T.A.P.A.'s code of ethics. Violation of this Rule may subject the P.A. to disciplinary action pursuant to Rule 0880-03-.15.

Authority: T.C.A. §§4-5-202, 63-19-104, and 63-19-108. **Administrative History:** Original rule filed July 7, 1995; effective September 20, 1995. Repeal and new rule filed March 31, 1999; effective July 29, 1999.

0880-03-.14 TEMPORARY LICENSE.