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Sequence Number: 03-19-10
Notice ID(s): 1215 - 1220
File Date: 03/08/2010

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 Board of Court Reporting
Division:	Administrative Office of the Courts
Contact Person:	Aaron Conklin, Assistant General Counsel
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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:	Aaron Conklin, Assistant General Counsel
Address:	Nashville City Center Suite 600, 511 Union Street Nashville, TN 37219
Phone:	615/741-2687
Email:	Aaron.conklin@tncourts.gov

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

Address 1:	Legislative Plaza	
Address 2:	Room - LP12	
City:	Nashville, TN	
Zip:	37243	
Hearing Date :	04/30/10	
Hearing Time:	9:00 a.m.	x CST ___EST

Additional Hearing Information:

Revision Type (check all that apply):

___ Amendment
x 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**
0455-01-01	Organization and Administration
Rule Number	**Rule Title**
0455-01-01-.01	Meetings of the Board
0455-01-01-.02	Duties of the Officers of the Board
0455-01-01-.03	Board Member Compensation
0455-01-01-.04	Use of Forms
0455-01-01-.05	Maintenance and Inspection of Board Records
0455-01-01-.06	Rules and Regulations

Chapter Number	**Chapter Title**
0455-01-02	Board Policies and Procedures
Rule Number	**Rule Title**
0455-01-02-.01	Change of Name or Address
0455-01-02-.02	Lost License
0455-01-02-.03	Verification of Tennessee License
0455-01-02-.04	Fees
0455-01-02-.05	Inactive Status
0455-01-02-.06	Restoration
0455-01-02-.07	Review Process

Chapter Number	**Chapter Title**
0455-01-03	Licensure
Rule Number	**Rule Title**
0455-01-03-.01	Licensure by Grandfathering – Work Experience
0455-01-03-.02	Licensure by Grandfathering – Credential
0455-01-03-.03	Temporary Licensure
0455-01-03-.04	Application for Licensure – Standard Process
0455-01-03-.05	Renewal

Chapter Number	**Chapter Title**
0455-01-04	Standards of Professional Conduct
Rule Number	**Rule Title**
0455-01-04-.01	Standards of Professional Conduct

Chapter Number	**Chapter Title**
0455-01-05	Disciplinary Enforcement
Rule Number	**Rule Title**
0455-01-05-.01	Definitions
0455-01-05-.02	Grounds for Denial of a License
0455-01-05-.03	Grounds for Discipline of a Licensee or Denial of Renewal or Reinstatement
0455-01-05-.04	Investigation
0455-01-05-.05	Board Action Following Investigation
0455-01-05-.06	Uniform Administrative Procedure Act
0455-01-05-.07	Formal Disposition of Contested Cases
0455-01-05-.08	Informal Disposition of Contested Cases
0455-01-05-.09	Decisions of the Board

0455-01-05-.10	Application following Denial of Licensure
0455-01-05-.11	Reinstatement of a Revoked License

Chapter Number	**Chapter Title**
0455-01-06	Continuing Education
Rule Number	**Rule Title**
0455-01-06-.01	Continuing Education Requirements
0455-01-06-.02	Acquiring Continuing Education Credit
0455-01-06-.03	Continuing Education Sponsors and Programs
0455-01-06-.04	Activities Not Qualifying for Continuing Education Credit
0455-01-06-.05	Non-Compliance with Continuing Education Requirement
0455-01-06-.06	Waiver of CE 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://state.tn.us/sos/rules/1360/1360.htm)

Tennessee Board of Court Reporting
Rules and Regulations

0455-01-01 Organization and Administration

0455-01-01-.01 Meetings of the Board

(1) The Board shall comply with the Tennessee Public Meetings law, Title 8, Chapter 44 of Tennessee Code Annotated.

(2) A minimum of two regular meetings shall be held each year.

(3) Four of the members of the Board shall constitute a quorum for the transaction of business.

(4) At its first meeting each calendar year, the board shall elect a Chair, a Vice Chair and a Secretary from its membership. No member shall be elected to serve more than two consecutive years in the same office.

(5) The Chair shall, in accordance with these rules, rule upon all questions of procedure and, in the event that evidence is taken, on the admissibility of that evidence. The decision of the Chair shall be final.

(6) All members of the Board, including the Chair, are entitled to vote and to make or second motions. A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.

(7) Special meetings may be called by the Chair or by a quorum of the Board.

(8) Notice of a meeting shall be given to all Board members at least seven days in advance of the meeting, unless all Board members agree to waive the seven day notice, or unless exigent circumstances require meeting with less notice.

(9) Requests to present information to the Board during a regularly scheduled Board meeting shall be submitted be in writing to the Director of the Administrative Office of the Courts, or his/her designee, at least fourteen days prior to the meeting. Exceptions may be made in extraordinary circumstances at the direction of the Chair. All requests are subject to review and approval by the Chair. The usual time limitation for presentations will be five minutes with exceptions made by permission of the Chair. Written requests should include:

(a) Contact information of the designated spokesperson; and

(b) Summary of information to be presented.

(10) The Secretary or designee shall keep a record of all regular meetings. The minutes shall be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, approved by the Board, shall be open to public inspection. The minutes shall reflect:

(a) The time and place of each regular meeting of the Board;

(b) Names of the Board members present;

(c) Whether guests were present, and if guests made presentations to the board, the name of the presenter and subject of such presentation;

(d) All official acts of the Board;

(e) The vote of the Board except when the votes are unanimous;

(f) When requested by a dissenting Board member, specific reasons shall be recorded; and

(g) A roll call vote may be taken upon the request of a Board member.

(11) All regular meetings of the Board shall be open and public except for executive sessions as provided by the Tennessee Public Meetings law, T.C.A Title 8, Chapter 44.

Authority: T.C.A. §§ 20-9-604 and 20-9-607.

0455-01-01-.02 Duties of the Officers of the Board

(1) The Chair shall preside at meetings of the Board, appoint members to serve on committees and subcommittees as may be created, serve as ex-officio member of all committees and subcommittees, and determine the rules of order of Board meetings.

(2) The Vice Chair shall preside in the absence of the Chair and shall assume the duties of Chair when necessary.

(3) The Secretary shall be responsible for the taking and maintenance of minutes of Board meetings.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

0455-01-01-.03 Board Member Compensation

(1) Each member of the Board shall serve without compensation, but shall be reimbursed for travel expenses incurred in attendance at meetings of the Board and any other business of the Board at its discretion. Travel expenses shall be reimbursed according to the rules promulgated by the department of finance and administration and approved by the Attorney General.

(2) The reimbursement for expenses shall be paid from funds derived from the Tennessee Board of Court Reporting Fund. If funds are not available, reimbursement shall not be made.

Authority: T.C.A. §§ 20-9-604 and 20-9-607.

0455-01-01-.04 Use of Forms

Applications and forms shall be made on the prescribed forms approved by the Board. Copies of instructions and forms are available from the Administrative Office of the Courts.

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609, 20-9-610, 20-9-613 and 20-9-614.

0455-01-01-.05 Maintenance and Inspection of Board Records

(1) The Board shall maintain its records in Accordance with the Tennessee Public Records law, T.C.A Title 10, Chapter 7.

(2) Public records maintained by the Board shall be subject to public disclosure pursuant to the Tennessee Public Meetings law, T.C.A. Title 8, Chapter 44 and the Tennessee Public Records law, T.C.A. Title 10, Chapter 7.

(3) Upon request to the Director of the Administrative Office of the Courts, public records maintained by the Board shall be available for inspection and duplication at the Administrative Office of the Courts during regular business hours. The inspection and duplication of public records shall be under the supervision of the Director of the Administrative Office of the Courts or his/her designee.

(4) Any person wishing to obtain copies of public records shall submit a written request to the Administrative Office of the Courts. Copies will be supplied upon payment of costs applicable under the Schedule of Reasonable Costs for Public Records published by the Administrative Office of the Courts.

(5) Public records maintained by the Board that are available for inspection and duplication include, but are not limited to:

(a) Names and business addresses of current licensees;

(b) Names of persons whose licenses have been suspended, revoked or subject to some other public discipline, including the type of license, date, infraction, the penalty incurred and the length of the penalty imposed;

(c) Rules and regulations of the Board as promulgated and published in accordance with the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

(d) Other written statements of policy or interpretations formulated, adopted or used by the Board in the discharge of its duties and functions; and

(e) Final orders, decisions, declaratory rulings and opinions issues by the Board.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

0455-01-01-.06 Rules and Regulations

All rules and regulations of the Board shall be adopted, amended or repealed in accordance with T.C.A. Title 4, Chapter 5, the Uniform Administrative Procedures Act.

Authority: T.C.A. § 20-9-607.

0455-01-02 Board Policies and Procedures

0455-01-02-.01 Change of Name or Address

(1) The applicant or licensee shall notify the Board of any requested name change. Appropriate legal documents and fees shall be submitted prior to changing the name of the licensee on the license card.

(2) The licensee shall notify the Board of any change in the licensee's personal or business address within 30 days of such change.

Authority: T.C.A. §§ 20-9-607 and 20-9-612.

0455-01-02-.02 Lost License

The licensee shall promptly report, in writing, the loss of a license card to the Board. A duplicate license card shall be issued upon completion of any form and payment of a replacement fee.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607

0455-01-02-.03 Verification of Tennessee License

(1) Verification of licensure will be available on the Board's website, to be maintained by the Administrative Office of the Courts.

(2) Upon receipt of a written request, the Director of the Administrative Office of the Courts, or his/her designee, shall provide written verification of Tennessee licensure.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607

0455-01-02-.04 Fees

(1) Fees and fines are not refundable.

(2) Fees are payable by certified check, cashier's check, corporate or business check, money order or personal check.

(a) Counter checks are not an acceptable method of payment. Personal checks shall be imprinted with the name, address and account number of the applicant or licensee.

(b) Personal checks by third parties are not acceptable.

(c) Applicants or licensees who submit personal checks returned due to insufficient funds may be prohibited from paying any future fees or fines by personal check.

(d) Statutory charges for returned checks shall be paid by the applicant or licensee, along with any penalties and fees authorized pursuant to T.C.A Title 47, Chapter 29.

(3) Fines are payable by certified check, cashier's check, corporate or business check, or money order.

(4) The Board may allow payment of fees by electronic means.

(5) Payment, regardless of method, that is not honored by the financial institution may result in disciplinary action and/or reporting to the appropriate legal authorities for possible prosecution.

(6) A license may not be issued until funds are received by the Board.

(7) The Administrative Office of the Courts will maintain and update the Schedule of Fees, as approved by the Board.

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-607, 20-9-610, 20-9-611, 20-9-612, 20-9-613 and 20-9-614.

0455-01-02-.05 Inactive Status

A person not actively engaged in the practice of court reporting may place their license on inactive status by completing and submitting an application for inactive status.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-615.

0455-01-02-.06 Restoration

A person seeking restoration of a license after it has been placed on inactive status for up to 5 years shall file an application with the Board together with the required fees. After July 1, 2011, in order to restore a license, a person shall submit proof of 15 hours of continuing education completed within one year before restoration. The applicant shall also submit either:

(1) Certification of current licensure from another jurisdiction completed by the appropriate board or licensure authority;

(2) Affidavits from two (2) members of the bench or bar attesting to the applicant's active practice of court reporting in a state that does not require licensure for at least one year immediately prior to the date of application;

(3) An affidavit attesting to military service; or,

(4) Other proof acceptable to the Board of the applicant's fitness to have the license restored.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

0455-01-02-.07 Review Process

All Applications for restoration after being placed on inactive status must be received for board review two (2) weeks prior to the next available board meeting to ensure adequate processing time. Upon receipt of an application and the appropriate fee, the board shall issue a designation, notify the applicant in writing of the reasons for denying the application, or notify the applicant in writing of the deficiencies in the application. Applicants have one (1) year from the date of the notification of deficiencies to complete the application process. If the process has not been completed within one (1) year, the application shall be denied, and the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication. In the event of a hardship, the applicant may apply in writing for a one (1) year extension to complete the process.

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

0455-01-03 Licensure

0455-01-03-.01 Licensure by Grandfathering – Work Experience

Any person who is engaged in the practice of court reporting on July 1, 2009 may apply for licensure by grandfathering. The application for grandfathering will require evidence that the court reporter is proficient in court reporting. Applications for grandfathering by work experience must be received by July 1, 2011. The application shall include:

(1) An affidavit setting forth past education and work experience as a court reporter;

(2) An affidavit of either:

(a) A judge for whom the person has worked as an official court reporter, or

(b) Affidavits of three (3) licensed attorneys, unrelated by blood or marriage to the person, and who have utilized the services of the court reporter, which attest to the court reporter's proficiency in court reporting;

(3) Payment of licensure fee.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-613.

0455-01-03-.02 Licensure by Grandfathering – Credential

(1) Any member in good standing of the Tennessee Court Reporters Association who holds the certified court reporter examination designation on July 1, 2009, upon payment of the licensure fee in an amount determined by the board, shall be automatically granted a license pursuant to this part and thereby may practice as a court reporter.

(2) Any member in good standing of the Tennessee Court Reporters Association who holds the certified court reporter designation on July 1, 2009, and does not apply for licensure within one (1) year of July 1, 2010, shall be required to pass the licensed court reporter examination and pay applicable licensure fees in order to become a licensed court reporter.

(3) Any member in good standing of the Tennessee Court Reporters Association who holds the registered professional reporter designation, or higher, from the NCRA, NVRA or AAERT on July

1, 2009, upon payment of the licensure fee in an amount determined by the board, shall be automatically granted a license pursuant to this part and thereby may practice as a court reporter.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-613.

0455-01-03-.03 Temporary Licensure

(1) Any person who provides to the board satisfactory proof of graduation from a court reporting program or its equivalent shall, upon application to the board on forms approved by the board and payment of a fee in an amount determined by the board, be issued a temporary license to practice as a court reporter. This temporary license shall expire sixty (60) days following the date upon which the next board-approved examination for licensure is given. No more than three (3) additional temporary licenses shall be issued to any applicant who fails to pass the scheduled examination for licensure.

(2) "Court reporting program" shall mean those educational programs, approved by the Tennessee Board of Court Reporting, that provide education related to court reporting as defined in T.C.A. § 20-9-602(2).

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-614.

0455-01-03-.04 Application for Licensure – Standard Process

Any person may submit an application to be licensed as a court reporter. The application shall include:

(1) Proof of passage of the National Court Reporters Association registered professional reporter examination, the National Verbatim Reporters Association certified verbatim reporter examination, or the American Association of Electronic Reporters and Transcribers certified electronic court reporter examination.

(2) Applications for licensure shall be signed and sworn by the applicants and submitted on forms furnished by the board.

(3) Payment of licensure fee.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-609.

0455-01-03-.05 Renewal

(1) A newly issued Court Reporter License in Tennessee shall be valid for two (2) years or for other such period of time authorized by T.C.A. § 20-9-609. The holder of the license may renew such license during the 60 days preceding the expiration date thereof by paying the required fee and completion of the application for renewal.

(2) A license renewal is valid for a period of two (2) years or other such period of time authorized by T.C.A. § 20-9-612.

(3) It is the responsibility of each licensee to notify the Board of any change of address within 30 days. Failure to receive a renewal form from the Board shall not constitute an excuse for failure to renew licensure.

(4) Late Renewals may be received up to 180 days following expiration of license with the required late renewal fee and application for renewal. Failure to renew a license within 180 days shall deem the license suspended and subject to reinstatement.

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609 and 20-9-612.

0455-01-04-.01 Standards of Professional Conduct

In order to establish and maintain a high standard of integrity in the practice of court reporting, the following Standards of Professional Conduct shall be binding on every person holding a license, of any type, from the Board. A Tennessee Licensed Court Reporter:

(1) Shall be fair and impartial toward each participant in all aspects of reported proceedings.

(2) Should only accept an assignment if his/her level of competence will result in the preparation of an accurate transcript and will remove himself/herself from an assignment if he/she believes his or her abilities are inadequate, recommending or assigning another licensee only if such licensee has the competence required for such assignment.

(3) Shall provide, if requested, information regarding services to be rendered regarding administration of professional services to all parties. The licensee must strive to meet promised delivery dates whenever possible, make timely delivery of transcripts when no date is specified and provide immediate notification of delays.

(4) Must immediately disclose any conflict of interest or appearance of impropriety as soon as it arises pursuant to T.C.A. § 24-9-136.

(5) Should immediately seek inactive status and refrain from practice if he/she becomes impaired and unable to function according to the standards of practice. It is the licensee's responsibility to seek supervision and/or personal therapy for any problem that is interfering with the ability to perform professional services.

(6) Shall preserve the confidentiality and ensure the security of information, oral or written, entrusted to the licensee by any and all of the parties in the proceeding.

(7) Shall establish a plan for the security and preservation of shorthand notes and any backups, both paper and electronic. All such plans shall preserve notes and backups for a period of time that complies with statutory requirement or rules and guidelines of the court. In the absence of a law or rule, notes and backups must be retained for no less than five years.

(8) Shall affix his/her signature, license number and expiration date to a transcript of his/her stenographic notes to certify to its correctness if the transcript has been prepared by him/her or under his/her direct supervision.

(9) Shall not relinquish control of an original transcript before the transcript is certified and delivered, or provide signed, sealed certificate pages and exhibits along with completed transcripts in an electronic format without first producing the transcript under the reporter's supervision.

(10) Shall not permit the use of his/her name or firm's name, nor shall a licensee be associated in business ventures with persons or firms that the licensee has reason to believe to be engaging in fraudulent or dishonest business practices.

(11) Shall determine fees independently, except where such fees are established by statute, court order, or applicable fee schedule, entering into no unlawful agreements on the fees to any user.

(12) Shall inform the Disciplinary Counsel of the Board of Court Reporting if he/she has knowledge that another court reporter has committed a violation of the Standards of Professional Conduct or the Tennessee Court Reporter Act of 2009 that raises a substantial question as to that court reporter's honesty, trustworthiness, or fitness as a court reporter in other respects. A licensee shall also cooperate with any investigation resulting from a complaint for disciplinary action.

(13) Shall not commit a criminal act that is a felony, or reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter in other respects.

(14) Shall be truthful and accurate when making public statements or when advertising qualifications or services provided.

(15) Shall meet all mandated continuing education requirements and should keep abreast of current literature and technological advances and developments.

(16) Shall refrain from giving, directly or indirectly, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for items that do not exceed $25 in the aggregate per recipient each year.

Authority: T.C.A. §§ 20-9-605 and 20-9-607.

0455-01-05 Disciplinary Enforcement

0455-01-05-.01 Definitions

(1) Reprimand: A formal or informal correspondence notifying the court reporter of a finding of an ethical violation with no further disciplinary action.

(2) Fine: A monetary penalty of no more than $1,000 per day imposed by the Board

(3) Probation: The monitored practice of court reporting which permits the court reporter to continue to practice pursuant to specified conditions as set forth by the Board.

(4) Suspension: The temporary withdrawal of the license by the Board.

(5) Revocation: The withdrawal of the license by Board action.

(6) Voluntary Surrender: The voluntary relinquishment of a license that has the force and effect of a revocation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.02 Grounds for Denial of a License

The following may be grounds for denial of a license:

(1) Failure to meet any requirement or standard established by law or by rules and regulations adopted by the Board.

(2) Engaging in fraud, misrepresentation, deception, or concealment of a material fact in applying for or securing licensure or taking any examination required for licensure.

(3) Having disciplinary action pending or having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country.

(4) Having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct that would constitute grounds for discipline.

(5) Any other reason authorized by law.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-609, 20-9-610 and 20-9-612.

0455-01-05-.03 Grounds for Discipline of a Licensee or Denial of Renewal or Reinstatement

The Board may fine, suspend, revoke or otherwise discipline any court reporter upon proof that the person:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license by:

(a) Filing false, forged or altered documents or credentials, including required continuing education documentation.

(b) Misrepresenting or falsifying facts in applying for original licensure, renewal, reactivation or reinstatement of license.

(c) Having another person appear for a licensing or certification examination.

(2) Has been convicted of a felony or a crime of moral turpitude that reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter in other respects.

(3) Is impaired due to the use of alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render the court reporter unsafe or unreliable, which includes, but is not limited to:

(a) A pattern of abuse or misuse of alcohol or illegal drugs.

(b) Impairment while on duty due to the use of drugs or alcohol.

(c) The use of alcohol or illegal drugs to the extent that medical or psychiatric treatment, rehabilitation or counseling is medically determined or otherwise recommended by a legally authorized practitioner.

(4) Is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters of court reporting, which includes but is not limited to:

(a) Failure to comply with the Tennessee Court Reporting Act and Rules and Regulations as well as federal, state or local laws, rules or regulations applicable to the area of court reporting practice.

(b) Failure to practice court reporting in accordance with the standards of practice adopted by the Board.

(c) Practice beyond the scope of practice as determined by, but not limited to educational preparation; license status; state and federal statutes and regulations; state and national standards appropriate to the type of practice; and court reporting experience.

(d) Falsification of credentials,

(e) Falsification of employment records, and

(f) Representing oneself as a court reporter without a license.

(g) Having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country, or having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct which would constitute grounds for disciplinary action in this state. A certified copy of the record of the agency that took such action shall be conclusive evidence of the grounds for discipline.

(5) Has failed to respond to official Board correspondence, including but not limited to requests for information, subpoenas, or notices.

(6) Has willfully or repeatedly violated any of the provisions of a statute or rule by conduct that includes but is not limited to:

(a) Practicing or seeking to practice court reporting without a current license.

(b) Impersonating an applicant for licensure or another licensed practitioner or permitting or allowing another person to use the court reporter license.

(c) Continued violation of statute or rule after notice by the Board.

(d) Failure to comply with any stipulated terms and conditions of any Board order or contract.

(7) Failed to comply with continuing education requirements.

(8) Submitted payment of any fees or fines to the Board with a worthless check, invalid credit card, or by any other method that is not honored by the financial institution.

(9) Authorized Court Reporter License number to be used on any transcript not produced through his or her personal effort or supervision, or both, or otherwise committed a prohibited act described in Rule 0455-01-01-.04(9).

(10) Poses a risk to public safety for any other reasons stated by law.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, 20-9-609, 20-9-610, 20-9-611 and 20-9-612.

0455-01-05-.04 Investigation

(1) Upon self-disclosure or receipt of a written complaint on a TBCR Consumer Complaint Form signed by the person making the complaint, alleging that a court reporter has violated a statute or rule by committing one or more of the actions specified as grounds for disciplinary action, the Disciplinary Counsel, to be designated by the Board, shall perform a preliminary review to determine if there is merit and sufficient evidence to warrant formal proceedings. The Consumer Complaint Form must be complete before an investigation is launched. Complaints must be submitted to the Board within ninety (90) days of the alleged occurrence, or within ninety (90) days of the discovery of a violation.

(2) When the Disciplinary Counsel determines there may be merit and sufficient evidence exists to warrant proceedings, a hearing committee shall be formed consisting of three members, one of which must be an attorney and one of which must be an official state court reporter.

(a) Within five (5) days of self-disclosure or receipt of a written complaint, the Disciplinary Counsel shall provide the court reporter, against whom the complaint was made, written notification of the complaint, allegation(s), and investigation process by certified mail or other delivery service that provides confirmation of delivery. The court reporter may submit, to the Disciplinary Counsel, a written response and any supporting documentation within 15 days of the receipt of the written notification.

(b) The committee shall review the complaint and other information submitted to determine if further investigation is warranted.

1. If an investigation is warranted, the Disciplinary Counsel will conduct further investigation, retaining an investigator, if necessary. If retained, the investigator shall work under the direction of the Disciplinary Counsel to conduct further investigation.

2. At the conclusion of the investigation, the investigator shall submit an investigation report to be reviewed by the Investigative Committee who has the authority to act on the report. The Investigative Committee shall send written notification to the complainant and the court reporter, against whom the complaint was made, of any action it decides to take in response to the investigation report.

(c) If the committee determines that an investigation is not warranted, the Disciplinary Counsel may close the investigative file, provided that the matter may be reinvestigated at any time if circumstances so warrant. The Disciplinary Counsel shall notify the complainant and the court reporter, against whom the complaint was made.

(3) When a preliminary review discloses that further investigation is not warranted, the Disciplinary Counsel may close the investigative file, upon approval of the Chair of the Board, provided that the matter may be reinvestigated at any time if circumstances so warrant.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.05 Board Action Following Investigation

The Board or its authorized designee shall have the power to act on the report of the investigation as follows:

(1) Dismiss complaint.

(2) Commence disciplinary proceedings.

(3) Accept voluntary surrender of a license.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.06 Uniform Administrative Procedure Act

The Board hereby adopts by reference as its rules the Uniform Administrative Procedure Act, T.C.A. Title 4, Chapter 5, for governing contested cases, appeals, and related proceedings.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.07 Formal Disposition of Contested Cases

(1) At least twenty one (21) days prior to the administrative hearing, a notice of hearing and a copy of the charges shall be served on the applicant or court reporter personally or by registered or certified mail to the last known address shown on the records of the Board.

(2) The Board's complaint may be amended prior to the hearing but no amendment shall be permitted which is not germane to the charge or charges or which materially alters the nature of any offense charged. The Board shall have the right to determine the sufficiency of the complaint.

(3) A motion for withdrawal of the complaint may be filed with the Board's designee. The circumstances surrounding the attempt to withdraw the complaint may be explained by the person who is attempting to withdraw the complaint and the explanation shall be considered. No complaint that is well-founded will be dismissed solely upon the motion of the original complainant.

(4) Pleadings relating to disciplinary proceedings pending before the Board shall be filed with the Board's designee. Pleadings shall be deemed filed upon actual receipt.

(5) Requests for subpoenas shall be filed with the Board at least ten (10) days prior to the hearing along with the appropriate subpoena-processing fee. Any expense for service by a sheriff, process server or other entity shall be the responsibility of the party requesting the subpoena. Any expenses incurred relative to subpoenas requested by a respondent, either for witnesses or related to production of documents are the responsibility of the party who requested the issuance of said subpoena.

(6) The hearing shall be conducted by the Board in the presence of a hearing officer or by a hearing officer, pursuant to T.C.A. § 4-5-301. All testimony shall be under oath and shall be transcribed by a court reporter scheduled by the Board. Telephonic or other real-time electronic testimony is admissible at the discretion of the hearing officer.

(7) A continuance may be granted by the Board or its designee upon the filing of a written motion and affidavit detailing the reasons for the continuance. No motion for continuance shall be granted unless filed at least five days prior to the hearing. This provision may be waived upon showing of an emergency.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.08 Informal Disposition of Contested Cases

(1) Complaints or controversies may be considered and resolved by the Board or Board designee through alternative dispute resolution, informal conferences, meetings, or other informal means. Such informal measures shall be held without prejudice to the right of the Board thereafter to institute formal proceedings based upon the same or related material if circumstances so warrant.

(2) Informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing and as approved by the Board.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.09 Decisions of the Board

(1) Based upon the evidence presented at the administrative hearing or pursuant to informal disposition the Board action may be one or more of the following:

(a) Dismiss the complaint.

(b) Reprimand the respondent.

(c) The respondent's license placed on probation status, subject to any conditions imposed.

(d) Suspend the respondent's license. A suspended license is subject to expiration during the suspension period.

(e) Revoke the respondent's license.

(f) Deny approval of an application.

(g) Deny renewal or reinstatement of a license.

(h) Impose other sanctions, restrictions or conditions.

(2) The Board may levy a fine not to exceed one thousand dollars ($1,000) per violation. Each day of a violation after notice is considered a separate violation.

(3) The decisions of the Board shall be in writing in the form of an order, a copy of which shall be mailed or delivered to the respondent or the respondent's attorney.

(4) The decisions of the Board shall be subject to public dissemination.

(5) Appeals may be made pursuant to the Uniform Administrative Procedure Act provisions on contested cases, T.C.A. Title 4, Chapter 5, Part 3.

(6) All members of the Board, including the Chair, are entitled to vote and to make or second motions in disciplinary matters except for any Board Member who may also serve on the Investigative Committee, serve as the Complainant, or have a conflict of interest in the case being decided. A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.10 Application following Denial of Licensure

(1) Application for a license following denial of licensure shall:

(a) Include evidence of rehabilitation, or elimination or resolution of the conditions for denial.

(b) Re-application must be at least twelve (12) months after the denial.

(2) Board action on applications following denial of licensure may be resolved either informally or through the formal hearing process.

(3) In considering a subsequent application for licensure, the Board may evaluate factors that include but are not limited to:

(a) The severity of the act(s) or omission(s) which resulted in the denial of license.

(b) The conduct of the applicant subsequent to the denial of license.

(c) The lapse of time since denial of license.

(d) Compliance with any conditions stipulated by the Board as a prerequisite for a subsequent application.

(e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.

(f) Whether the applicant is in violation of any applicable statute or rule.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-05-.11 Reinstatement of a Revoked License

(1) Application for reinstatement:

(a) May be made twelve months after the effective date of revocation unless otherwise specified in Order or Agreement.

(b) Shall be made according to forms and guidelines provided by the Board.

(2) Applications for reinstatement of a revoked license may be resolved informally or through the formal hearing process.

(3) In considering reinstatement of a revoked license, the Board may evaluate factors that include but are not limited to:

(a) Severity of the act(s) that resulted in revocation of the license.

(b) Conduct of the applicant subsequent to the revocation of license.

(c) Lapse of time since revocation.

(d) Compliance with all reinstatement requirements stipulated by the Board.

(e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.

(f) Whether the applicant is in violation of any applicable statute or rule.

(g) Directly or by implication represented in any way that the person was a licensed court reporter during the period of revocation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

0455-01-06 Continuing Education

0455-01-06-.01 Continuing Education Requirements

(1) Beginning with the first renewal and every renewal thereafter, every licensee who applies for renewal of a license shall have completed two credits of continuing education (CE) relevant to the practice of court reporting.

(2) A Renewal Period is the twenty four (24) months preceding July 1 of each year.

(3) A CE credit means ten (10) hours of continuing education.

(4) A CE hour means a minimum of 50 minutes of actual clock time spent by a licensee in actual attendance at and completion of an approved CE activity. After completion of the initial CE hour, credit may be given in one-half hour increments.

(5) Non-Resident Licensees shall comply with the CE Requirements set forth in this Section.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

0455-01-06-.02 Acquiring Continuing Education Credit

(1) Continuing Education hours may be earned from:

(a) Verified attendance at or participation in a program, activity or course through a national or state court reporting association.

(b) Verified attendance (e.g. license of attendance or license of completion) at or participation in a program, activity or course ("program") presented by a continuing education sponsor in Rule 0455-01-06-.03,

(c) Verified attendance at a program that is of general information value to court reporters but does not directly relate to the reporter's ability to produce an accurate and timely transcript. A maximum of 7 (seven) hours credit may be counted during a pre-renewal period for such programs, which include:

1. Professionalism, including knowledge and application of standards of professional responsibility, impartiality, public relations; and

2. Office procedures, record-keeping, health, including a reporter's approach to personal tax management, planning for retirement or changing careers within reporting, maintaining the individual reporter's health and emotional adjustment, ability to listen, to concentrate, to communicate, to cope.

(d) Verified personal preparation of educational presentations pertaining to the profession of court reporting and serving as an instructor, speaker or panel member at an approved course will be allowed as CE credit for actual presentation time, plus actual preparation time of up to 4 hours of each hour of presentation. Credits for preparation time shall not be allowed for repetitious presentations. No more than 12 hours of credit can be earned under this category in any one renewal period.

(e) Writing articles to the profession of court reporting and published in a state or nationally recognized professional journal of court reporting or law. No more than 6 hours of credit

can be earned under this category in any one renewal period. Credits will not be allowed for the same article published in more than one publication.

(2) Courses completed that are a part of the curriculum of a university, college or other education institution. One semester of course work is equivalent to 5 hours of CE and one quarter of course work is equivalent to 2.5 hours of CE.

(3) Proof of attendance at the course or that other qualifying continuing education activity must be submitted to the Board of Court Reporting.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

0455-01-06-.03 Continuing Education Sponsors and Programs

(1) Sponsor, as used in this Section, shall mean the following:

(a) The National Court Reporters Association (NCRA);

(b) The National Verbatim Reporters Association (NVRA);

(c) The Tennessee Court Reporters Association (TNCRA) or any state court reporters association whose course or program has been approved for CE credits under the guidelines of any national or state court reporting association;

(d) Any computer users group whose program or course has been approved for CE credits under the guidelines of any national or state court reporting association;

(e) A city, county, state or federal judicial body responsible for coordination and presentation of CE courses or programs for its employees;

(f) A university or college course or adult education program that contributes directly to the Court Reporter's knowledge, ability or competence to perform his/her duties; and

(g) Any other school, college or university, State agency, or any other person, firm or association that has been approved by the Board to coordinate and present CE Courses and programs in conjunction with this Section.

(2) All programs shall:

(a) Contribute to the advancement, extension and enhancement of the professional skills and knowledge of the individual licensee in the practice of court reporting;

(b) Include one or more of the following subjects directly related to the court reporter's ability to produce accurate and timely transcripts:

1. English, including grammar, punctuation, general principles, spelling, vocabulary, etymology, usage, semantics, regional and minority dialects or colloquialisms, English history, transcript styles;

2. Medical, including Greek and Latin derivatives, homonyms, abbreviations, surgical procedures, pharmacy, anatomy and physiology, specialized medical fields, (i.e. neurology, dentistry, radiology, gastroenterology), with emphasis on terminology and techniques or concepts likely to be encountered during litigation;

3. Legal, including terminology, research techniques, presentations on the various subdivisions of law (i.e., criminal, torts, domestic relations, corporate, admiralty, patent, environmental) and procedural law (i.e., depositions, trials, administrative proceedings) presentations by legal specialists or experts in the field, history of the American/world legal system;

4. Technical subjects presented by experts with emphasis on terminology and concepts encountered by the shorthand reporter during litigation (i.e., accident reconstruction, chemistry, construction, geology, insurance, maritime, aerospace, products liability, industrial and environmental pollution);

5. Technology related to new developments in the field of reporting (i.e., computer technology, computer techniques, video, telecommunications, equipment maintenance);

6. General litigation procedures as they relate to court, deposition and administrative proceedings (i.e., reporting depositions, court hearings, arbitrations, conventions and the court reporter's responsibility with regard to these proceedings, notary responsibilities, making exhibits, reading back, going on and off the record, review of statutes, rules related to the reporter);

7. Transcript preparation, including indexing of witnesses, exhibits, formats, dictating, editing and scoping, reference libraries and research techniques, proofreading; and

8. Management, including financial, marketing, personnel, equipment maintenance, time and stress management;

(c) Be relevant to the needs of court reporters and also to the reporting service needs of the users;

(d) Be developed and presented by persons with education and/or experience in the subject matter of the program;

(e) Specify for whom the program is primarily designed, the course objectives, course content and teaching methods to be used; and

(f) Specify the number of CE hours that may be applied to fulfilling the CE requirements for renewal of the license.

(3) Each CE program shall provide a mechanism for evaluation of the program by the participants. The evaluation may be completed on-site immediately following the program or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

(a) An approved sponsor may subcontract with individuals and organizations to provide programs.

(b) Continuing education credits may be awarded for home study courses, correspondence courses or internet based courses, provided they are courses administered by approved sponsors.

(c) All programs given by approved sponsors shall be open to all licensed court reporters and not be limited to members of a single organization or group.

(d) Continuing Education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the Tennessee Board of Court Reporting.

(e) License of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a license of attendance or participation. The sponsor's license of attendance shall contain:

1. The name, address, and license number of the sponsor;

2. The name and address of the participant;

3. A brief statement of the subject matter;

4. The number of hours attended in each program;

5. The date and place of the program; and

6. The signature of the sponsor.

(f) The sponsor shall maintain attendance records for not less than 5 years.

(g) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

0455-01-06-.04 Activities Not Qualifying for Continuing Education Credit

Certain activities that shall not be considered acceptable for continuing education credits include, but shall not be limited to, the following:

(1) Attendance or participation at professional or association business meetings, conferences, general sessions, elections, policymaking sessions or program orientation;

(2) Serving on committees;

(3) Entertainment and recreation;

(4) Tours, visiting exhibits;

(5) Any function for which the registrant receives remuneration as part of his/her regular employment;

(6) In-house training on office equipment; and

(7) Courses with a main thrust of teaching nonverbal skills (i.e., golf, tennis, dancing, etc.).

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

0455-01-06-.05 Non-Compliance with Continuing Education Requirement

(1) Each renewal applicant's CE credit will be reviewed to ensure that the CE requirement has been met.

(2) Where there appears to be a lack of compliance with the CE requirement, an applicant shall be notified in writing. Such applicant may request an interview with the Board.

(3) The Board may recommend steps being taken to begin formal disciplinary proceedings for non-compliance with the CE requirement.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

0455-01-06-.06 Waiver of CE Requirements

(1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Board a renewal application along with the required renewal fee, a statement setting forth the facts concerning non-compliance and request a waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Board, finds from the documentation submitted that extreme hardship has been shown for granting a waiver, the Board shall waive enforcement of CE requirements for the renewal period for which the applicant has applied. Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the application pre-renewal period because of:

(a) Full-time service in the armed forces of the United States during a substantial part of the pre-renewal period;

(b) An incapacitating illness documented by a statement from a currently licensed physician;

(c) A physical inability to travel to the sites of approved programs documented by a currently licensed physician;

(d) Being retired from practice and not performing reporting services, or

(e) Any other similar extenuating circumstances.

(2) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the applicant is made by the Board.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

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: March 8, 2010

Signature: Aaron J. Conklin

Name of Officer: Aaron J. Conklin

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: March 8, 2010

Notary Public Signature:

My commission expires on: My Commission Expires JAN. 9, 2012

DEBRA HAYES STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

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Filed with the Department of State on: 3/8/10

Tre Hargett
Secretary of State

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