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Sequence Number: 04-08-15
 Rule ID(s): 5932
 File Date: 4/6/15
 Effective Date: 2/5/15

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Board of Physical Therapy
Division:	Department of Health
Contact Person:	Grant Mullins Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37234
Phone:	(615) 741-1611
Email:	Grant.Mullins@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
1150-01	General Rules Governing the Practice of Physical Therapy
Rule Number	Rule Title
1150-01-.08	Examinations

(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>)

Amendments

1150-01-.08 Examinations is amended by deleting paragraph (9) and its subparagraphs in their entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

- (9) Effective July 1, 2015, the Board will no longer approve individualized structured remediation plans. However, those remediation plans already in effect prior to July 1, 2015 must be completed by the applicant. An applicant who fails the examination more than two (2) times after July 1, 2015 must submit proof of ten (10) hours of additional clinical training and ten (10) hours of additional coursework to the Board administrator before the Board will approve a reapplication for subsequent testing beyond two attempts.

Authority: T.C.A. §§ 63-13-301, 63-13-304, 63-13-306.

(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>)

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Authority: T.C.A. §§ 63-13-301, 63-13-304, 63-13-306.

* 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)
Brigina T. Wilkerson	X				
Brandon K. Hollis	X				
David Harris				X	
David Finch	X				
Minty R. Ballard				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Physical Therapy (board/commission/ other authority) on 02/07/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/12/13 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 02/07/14 (mm/dd/yy)

Date: 3/13/15

Signature: [Handwritten Signature]

Name of Officer: Grant Mullins

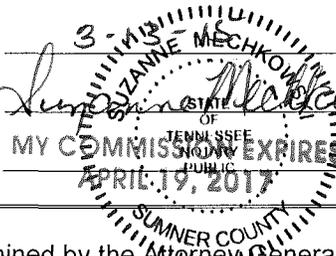
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: _____

Notary Public Signature: [Handwritten Signature]

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.

[Handwritten Signature]
 Herbert A. Slatery III
 Attorney General and Reporter
4/1/2015
 Date

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Filed with the Department of State on: 4/6/15

Effective on: 7/5/15

[Handwritten Signature]
 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.

Scott Newton, a representative of the Tennessee Physical Therapy Association, addressed the Board with support for the rule amendments.

At its March 9, 2015 meeting, the Board adopted additional clarifying changes to the remediation rule that specify an effective date for the changes and ensure that the provisions of the rule are consistent with T.C.A. § 63-13-306(e). (Brigina T. Wilkerson, David Harris, and David Finch were present and voted in favor of these changes on March 9, 2015.)

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.**

These rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

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

These rules exhibit clarity, conciseness, and lack of ambiguity.

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

These rules do not establish flexible 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.**

These rules do not establish schedules or deadlines for compliance and/or reporting requirements for small businesses.

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

These rules 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.**

These rules do not establish performance standards for small businesses as opposed to design or operational standards.

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

These rules do not create entry 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: Board of Physical Therapy

Rulemaking hearing date: 02/07/2014

- 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:**

Those engaging in the practice of physical therapy are subject to these rule amendments. The Department does not anticipate any cost to small business. The rule will allow, however, more candidates for consideration as businesses hire physical therapists and physical therapy assistants.

- 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:**

These rule amendments do not require any additional reporting, recordkeeping, or any other administrative costs for compliance. In fact, these rule amendments will reduce the recordkeeping duties of the Board as it will no longer keep records regarding the licensees' remediation programs.

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

These rule amendments should have no impact on small businesses and consumers. Any impact on businesses offering physical therapy services should be minimal as the proposed rule amendments will have no effect on the number of times a licensee can sit for the exam.

- 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:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rules.

- 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.**

These rules do not provide for any exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "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 financial impact on local governments."

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

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

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

Rule 1150-01-.08(9): The amendment will clarify that, effective July 1, 2015, the Board will no longer approve individualized structured remediation plans for those graduates who have failed the Physical Therapy Exam repeatedly. Instead, consistent with T.C.A. § 63-13-306(e), the Board will require that applicants who fail the examination more than two times after July 1, 2015 must submit proof of ten hours of additional clinical training and ten hours of additional coursework before the Board will approve their reapplication for subsequent testing beyond two attempts.

- (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 rules affect those engaged in the practice of physical therapy and the Board of Physical Therapy.

- (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 increases or decreases in state and local government revenues and expenditures.

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

Grant Mullins, Assistant General Counsel, Department of Health, possess substantial knowledge and understanding of the rule.

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

Grant Mullins, Assistant General Counsel, Department of Health, will explain the rule at a meeting of the committees.

- (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

665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Grant.Mullins@tn.gov

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

None.

(Rule 1150-01-.07, continued)

2. The applicant fails to sit for the written exam, if applicable, within six (6) months after being notified of eligibility.
 - (b) Whenever the applicant fails to complete the application process as stated in (a) above, written notification will be mailed to the applicant notifying him that the file has been closed. The determination of abandonment must be ratified by the Board. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.
- (10) If an applicant requests an entrance for licensure and, after Board review, wishes to change that application to a different type of entrance, a new application with supporting documents and an additional application fee must be submitted, e.g., reciprocity to examination.
- (11) An applicant shall submit an original letter of recommendation from a physical therapist or physical therapist assistant licensed in the United States that attests to the applicant's good moral character. The letter cannot be from a relative of the applicant.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-301, 63-13-108, 63-13-301, 63-13-304, 63-13-306, 63-13-307, and 63-13-312. **Administrative History:** Original rule filed September 30, 1987; effective November 14, 1987. Amendment filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000.

1150-01-.08 EXAMINATIONS. In addition to having filed an application, an individual seeking licensure shall be required to pass an examination.

- (1) The Board adopts as its examination for physical therapists and physical therapist assistants the National Physical Therapy Examinations endorsed by the Federation of State Boards of Physical Therapy or successor examinations.
- (2) Examination Application
 - (a) All applicants for examination shall apply for admission directly with the Federation of State Boards of Physical Therapy (FSBPT) by contacting:

Federation of State Boards of Physical Therapy	Telephone	(703) 299-3100
509 Wythe Street	Fax	(703) 299-3110
Alexandria, VA 22314	Internet	www.fsbpt.org

Application forms and instructions will be provided by the Board's administrative office.
 - (b) All educational requirements must be completed prior to filing an application for licensure or examination.
- (3) Eligibility Approval
 - (a) Only a person who has filed the required application, paid the fees, and been notified of acceptance by the Board shall be permitted to take the examination.
 - (b) The FSBPT will compile an applicant list and forward to the Board. The Board will review the applicant list provided by the FSBPT, determine the eligible applicants, and notify the FSBPT of such determination.

(Rule 1150-01-.08, continued)

- (c) An examination shall be administered only to bona fide candidates for initial licensure or candidates who are not licensed in another jurisdiction and do not have a qualifying exam score in another jurisdiction.
 - (d) An applicant for licensure and/or examination who has not met the requirements as set forth in T.C.A. §63-13-306 and §63-13-307 shall be refused permission to take the examination.
- (4) Eligibility Notification
- (a) The FSBPT will compile eligibility lists and forward to the Computer Based Testing Provider. The FSBPT will send a letter to each candidate containing a toll-free number to call to schedule the examination.
 - (b) The candidate will contact the Computer Based Testing Provider to schedule the examination at the location of their choice.
 - 1. Candidates must take the examination within sixty (60) days of the date on the eligibility letter provided by the FSBPT. If the candidate does not take the examination within this time period, they will be removed from the eligibility listings of the Computer Based Testing Provider and will be required to begin the examination application process again.
 - 2. Candidates may reschedule the examination up to two (2) working days prior to the scheduled test date by calling the toll-free number provided to them in their eligibility letter without penalty. Candidates who fail to give such notice to the Computer Based Testing Provider, and who fail to sit for the Examination as scheduled, will forfeit the examination fees paid and will be required to begin the examination application process.
- (5) Administration
- (a) Candidates must arrive at the test site at least fifteen (15) minutes prior to their scheduled appointment with the Computer Based Testing Provider.
 - (b) Candidates must have government-issued photo identification (passport, driver's license, etc.) as well as another piece of identification which contains a signature.
 - (c) All candidates will be thumb-printed and photographed at the testing center.
 - (d) All sessions will be videotaped.
- (6) Passing level. Candidates qualifying for licensure by examination must pass the examination with a criterion reference passing point. This passing point shall be set to equal a scaled score of six hundred (600) based on a scale ranging from two hundred to eight hundred (200-800).
- (7) Results
- (a) No information regarding pass/fail status will be available to candidates at the test site.
 - (b) Upon receipt of the examination group score reports in the Board's administrative office, the results will be mailed to each candidate with ten (10) working days. Scores will not be provided except in writing and by mail.

(Rule 1150-01-.08, continued)

- (c) Hand scoring services are available from the FSBPT at the request of the candidate. The FSBPT may charge a fee for this service.

(8) Retaking

- (a) A candidate who fails the examination is eligible to repeat the licensure examination process described in this rule. An applicant who fails to qualify for licensure after a total of two (2) examination attempts, in any state, shall wait at least three (3) months after the last unsuccessful attempt before reapplying for examination.
- (b) If the individual neglects, fails to pass, or refuses to take the examination within twelve (12) months after being deemed eligible to sit for the examination, the application shall be denied and the file shall be closed. However, such individual may thereafter, make a new application pursuant to Rule 1150-01-.04, 1150-01-.05, 1150-01-.07, and 1150-01-.08.

~~(9) Remediation—Applicants who have twice failed the examination must obtain an Examination Performance Feedback report. This is a detailed diagnostic score report provided by the FSBPT for a fee. The applicant must develop a remediation plan. Such plan may be developed with the assistance of faculty at his/her accredited physical therapy educational program. The plan must outline the measures to be taken to address the weak areas, and must include the observation of physical therapy being practiced in a clinical setting for a minimum of twenty (20) hours during the three (3) month period described in subparagraph (8) (a).~~

- ~~(a) The applicant must sign and submit the written plan for remediation to the Board prior to implementation of the plan.~~
- ~~(b) Plans developed with assistance of an accredited physical therapy educational program should contain the signature of the faculty member recommending the remediation plan.~~
- ~~(c) The Board's consultant or any Board member may preliminarily review and approve the written plan, and a final decision will be made at the next Board meeting.~~
- ~~(d) If the plan is preliminarily approved, it can be implemented. When the Board gives final approval to the plan, the applicant must complete the plan and submit a report to the Board detailing the completion of each element of the remediation plan. Applicants will only be allowed to retake the examination after the remediation process has been approved and completed.~~

(9) Effective July 1, 2015, the Board will no longer approve individualized structured remediation plans. However, those remediation plans already in effect prior to July 1, 2015 must be completed by the applicant. An applicant who fails the examination more than two (2) times after July 1, 2015 must submit proof of ten (10) hours of additional clinical training and ten (10) hours of additional coursework to the Board administrator before the Board will approve a reapplication for subsequent testing beyond two attempts.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-301, 63-13-304, 63-13-306, and 63-13-307.
Administrative History: Original rule filed August 16, 1990; effective September 30, 1990. Repeal filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Amendment filed January 31, 2000; effective April 15, 2000. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed January 19, 2005; effective April 4, 2005. Amendment filed September 24, 2009; effective December 23, 2009. Amendment filed August 19, 2010; effective November 17, 2010.