

Division of Publications

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Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Board of Communications Disorders and Sciences Council for Licensing Hearing Instrument Specialists
Division:	
Contact Person:	Diona E. Layden
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1370-02	General Rules Governing Hearing Instrument Specialists
Rule Number	Rule Title
1370-02-.06	Fees

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1370-02
General Rules Governing Hearing Instrument Specialists
Amendments

Rule 1370-02-.06 Fees is amended by adding a new subparagraph (1)(b) and renumbering the remaining subparagraphs appropriately, so that as amended, the new subparagraph shall read:

- (1)
- (b) Council Operations Fee - A non-refundable fee to be paid by each hearing instrument specialist. This fee shall be paid by the last day in the licensee's birth month in the non-renewal year. This fee shall be effective for two (2) renewal cycles for each licensee. This fee shall expire at midnight on December 31, 2016.

Authority: T.C.A. §§ 63-17-105, 63-17-215.

Rule 1370-02-.06 Fees is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(3) Fee Schedule

(a) Hearing Instrument Specialists

	Type Fee	Amount
1.	Application Fee	\$540.00
2.	Duplicate License or Duplicate Certificate Fee	\$ 25.00
3.	Written Endorsement/Verification Fee	\$ 25.00
4.	Examination Fees	
	(i) Written – 1st Attempt	\$ 175.00
	(ii) Written – Retake	\$ 175.00
	(iii) Practical – 1st Attempt	\$ 175.00
	(iv) Practical – Retake	\$ 125.00
5.	Late Renewal Fee	\$ 180.00
6.	Licensure Renewal Fee (Biennial)	\$ 950.00
7.	State Regulatory Fee (Biennial)	\$ 10.00
8.	Council Operations Fee (Paid in the non-renewal year)	\$ 300.00

(b) Apprentice Hearing Instrument Specialist

	Type Fee	Amount
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- | | | |
|----|----------------------------|----------|
| 1. | Application Fee | \$150.00 |
| 2. | Examination and Retake Fee | \$125.00 |
| 3. | State Regulatory Fee | \$ 10.00 |

Authority: T.C.A. §§ 63-17-105, 63-17-215.

I certify that on April 1, 2010, the Council for Licensing Hearing Instrument Specialists voted to send amendments to Rule 1370-02-.06 Fees, above, to a rulemaking hearing, in accordance with T.C.A. 63-17-201, *et seq.*

* 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)
Dr. Whitney Mauldin	X				
Dr. John Ashford	X				
Dr. Valeria Matlock	X				
Dr. Ron Eavey				X	
Terri Philpot	X				
Lynne Harmon	X				
O. H. Freeland	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Communications and Sciences on November 9, 2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/25/10

Rulemaking Hearing(s) Conducted on: (add more dates). 11/09/10

Date: November 30, 2010

Signature: DEY

Name of Officer: Diona E. Layden

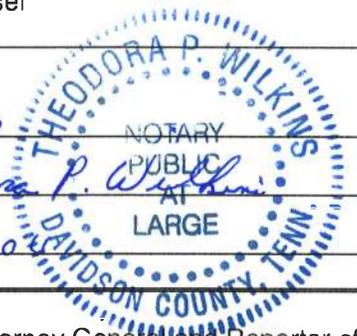
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 11/30/10

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011



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 SECRETARY OF STATE
 PUBLICATIONS

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.

RE Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter

2-8-11
 Date

Department of State Use Only

Filed with the Department of State on: 4/29/11
 Effective on: 7/28/11 09/25/2011



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.

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

TENNESSEE BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES

The rulemaking hearing for the Tennessee Board of Communications Disorders and Sciences was held on November 9, 2010 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Diona E. Layden, Assistant General Counsel, presided over the hearing.

No oral comments were received at the rulemaking hearing.

A written comment was received prior to the rulemaking hearing from Jim Adair, Adair Hearing Aids, in Bolivar, Tennessee. Mr. Adair stated that the current licensure renewal fee is already extremely high and that raising the fee is unfair and unreasonable. Mr. Adair also stated that an increase in the licensure renewal fee could deter individuals from joining the profession and could also cause some hearing instrument specialists, like himself, to leave the profession. Mr. Adair asked the Board reconsider raising the licensure renewal fee.

The Board responded that an increase in the licensure renewal fee is needed to balance the budget for the Council for Licensing Hearing Instrument Specialist. The amount of the fee increase is based on the number of hearing instrument specialist in the state.

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.

Regulatory Flexibility Analysis

- (1) The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The language of the proposed rule amendments is clear, concise, and lacks ambiguity.
- (3) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The proposed rules are not written with special consideration for flexible compliance and/or requirements. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The compliance and/or reporting requirements throughout the proposed rules are as "user-friendly" as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (5) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The compliance and/or reporting requirements throughout the proposed rules are as consolidated and/or simplified as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (6) The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards, design standards, or operational standards for the affected persons.
- (7) The proposed rule amendments do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity.

Statement of Economic Impact

Types of small businesses that will be directly affected by the proposed rules:

The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices.

Types of small businesses that will bear the cost of the proposed rules:

The proposed rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices.

Types of small businesses that will directly benefit from the proposed rules:

The proposed rule amendments affect licensed hearing instrument specialist and hearing instrument specialist apprentices.

Description of how small business will be adversely impacted by the proposed rules:

The proposed rule amendments increase certain fees assessed by the Council for Licensing Hearing Instrument Specialists.

Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:

The Board of Communications Disorders and Sciences does not believe there are less burdensome alternatives to the proposed rule amendments. The proposed amendments to the fee rules are necessary so that the Council for Licensing Hearing Instrument Specialists will be self-sufficient.

Comparison of the proposed rule with federal or state counterparts:

Federal: The Board of Communications Disorders and Sciences is not aware of any federal counterparts.

State: The proposed amendments to the fee rules are higher than the same fee(s) for the states of Georgia, Kentucky, Alabama, and Mississippi.

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)

These rule amendments are not expected to have any 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 TCA 4-5-226(i)(1).

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

The rules promulgate amendments to the General Rules Governing Hearing Instrument Specialist. The rules increase fees collected by the Council as follows: (1) the application fee for hearing instrument specialists increased from \$450.00 to \$540.00; (2) the biennial licensure renewal fee for hearing instrument specialists is increased from \$700.00 to \$950.00; (3) the application fee for hearing instrument specialist apprentices is increased from \$125.00 to \$150.00; (4) the written endorsement/verification fee for hearing instrument specialists is increased from \$20.00 to \$25.00; (5) the late renewal fee for hearing instrument specialists is increased from \$150.00 to \$180.00; and (6) the Council Operations Fee, a new fee, is set at \$300.00 and will be paid in the non-renewal year.

- (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;

Authority for these amendments comes from state statutes regarding the practice of hearing instrument specialists, Tenn. Code Ann. §§ 63-17-105, 63-17-215.

- (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 rule amendments affect licensed hearing instrument specialists and hearing instrument specialist apprentices. There was one written comment from a licensed hearing instrument specialist asking the Board to reconsider the fee increases.

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

None.

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

The fee increases will have neither a negative nor a positive fiscal impact because they are implemented to maintain the self-sufficiency of the program.

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

Diona E. Layden, Assistant General Counsel, Department of Health possesses 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;

Diona E. Layden, Assistant General Counsel, Department of Health will explain the rule at a scheduled 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

Diona E. Layden, Assistant General Counsel, Office of General Counsel, 220 Athens Way, Suite 210, Nashville, SS-7039 (July 2010)

TN 37243, (615) 741-1611, Diona.Layden@tn.gov

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

None.

(Rule 1370-2-.05, continued)

Administrative Office. The transcript must carry the official seal of the school and reference the name under which the applicant has applied for licensure. If the name under which the transcript is issued differs from the applicant's current name, documentation must be submitted which supports such applicant's name change.

- (d) An applicant shall pay, at the time of application, the non-refundable application fee provided in Rule 1370-2-.06.
- (e) An applicant shall pay, at the time of application, the examination fee pursuant to Rule 1370-2-.06.
- (f) Passage of the required examination(s) pursuant to Rule 1370-2-.08 is a prerequisite to licensure.
- (g) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
- (h) An applicant shall provide documentation from a medical doctor that, in his professional opinion, the applicant is physically capable of practicing his profession.
- (i) An applicant shall submit with his application, a certified photocopy of his birth certificate.
- (j) An applicant shall provide evidence, in the form of a letter from a sponsor, that he has obtained a sponsor to provide training, direct supervision, and an outline of training.
- (k) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any crime in any country, state, or municipality, except minor traffic violations.
 - 2. The denial of a licensure application or previous or pending discipline of a licensee by any state or country.
- (l) An applicant shall cause to be submitted to the Council's administrative office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-203, 63-17-207, and 63-17-208. **Administrative History:** For Administrative History prior to November, 1987 see page 1. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Amendment filed March 1, 1990; effective April 15, 1990. Amendment filed January 24, 1991; effective March 10, 1991. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-1-.05 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed March 17, 2006; effective May 31, 2006. Amendment filed June 29, 2007; effective September 12, 2007.

1370-2-.06 FEES.

- (1) The fees authorized by the Tennessee Council for Hearing Instrument Specialists Act (T.C.A. §§63-17-201, *et seq.*) and other applicable statutes are established as follows:
 - (a) Application Fee - A nonrefundable fee to be paid by all applicants. It must be paid to the Council each time an application for licensure is filed, or a license is reactivated. This fee includes the Initial License Fee and /or the fee for Licensure by Reciprocity.

(Rule 1370-2-.06, continued)

- (b) Council Operations Fee - A non-refundable fee to be paid by each hearing instrument specialist. This fee shall be paid by the last day in the licensee's birth month in the non-renewal year. This fee shall be effective for two (2) renewal cycles for each licensee. This fee shall expire at midnight on December 31, 2016.
- (bc) Duplicate License or Duplicate Certificate Fee - A nonrefundable fee to be paid when an individual requests a replacement for a lost/destroyed "artistically designed" license or a lost/destroyed renewal certificate.
- (ed) Examination (and Retake) Fee – A fee to be paid prior to each time an examination, or any component of an examination, is taken or retaken. The Examination (and Retake) Fee is nonrefundable if the examination, or any component of an examination, is taken or retaken. If the Examination (and Retake) Fee is paid but the examination or examination component(s) are not taken or retaken, the Examination (and Retake) Fee, except for twenty-five dollars (\$25.00), shall be refunded if the applicant submits a refund request within thirty (30) days from when the examination that the applicant was scheduled to take was administered.
- (de) Late Renewal Fee - a nonrefundable fee to be paid when licensee fails to timely renew his license. This is an additional fee which must be submitted along with the Licensure Renewal Fee (Biennial) and the State Regulatory Fee.
- (ef) Licensure Renewal Fee (Biennial) - A nonrefundable fee to be paid by all license and certificate holders prior to issuance of the "artistically designed" license on a biennial renewal basis. This fee also applies to individuals who reactivate a retired or lapsed certificate or license.
- (fg) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications.
- (gh) Written Endorsement/Verification Fee - A nonrefundable fee paid for each certification, verification, or endorsement of a licensee's record for any purpose.
- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Council for Licensing Hearing Instrument Specialists.

~~(3) — Fee Schedule~~~~(a) — Hearing Instrument Specialists~~

Type Fee	Amount
1. Application Fee	\$ 450.00
2. Duplicate License or Duplicate Certificate Fee	\$ 25.00
3. Written Endorsement/Verification Fee	\$ 20.00
4. Examination Fees	
(i) Written – 1st attempt	\$ 175.00
(ii) Written – Retake	\$ 175.00
(iii) Practical – 1st attempt	\$ 175.00

(Rule 1370-2-.06, continued)

(iv) Practical - Retake	\$ 125.00
5. Late Renewal Fee	\$ 150.00
6. Licensure Renewal Fee (Biennial)	\$ 700.00
7. State Regulatory Fee (Biennial)	\$ 10.00
(b) Apprentice Hearing Instrument Specialist	
Type Fee	Amount
1. Application Fee	\$ 125.00
2. Examination and Retake Fee	\$ 125.00
3. State Regulatory Fee	\$ 10.00

(3) Fee Schedule

(a) Hearing Instrument Specialists

<u>Type Fee</u>	<u>Amount</u>
<u>1. Application Fee</u>	<u>\$540.00</u>
<u>2. Duplicate License or Duplicate Certificate Fee</u>	<u>\$ 25.00</u>
<u>3. Written Endorsement/Verification Fee</u>	<u>\$ 25.00</u>
<u>4. Examination Fees</u>	
<u>(i) Written – 1st Attempt</u>	<u>\$ 175.00</u>
<u>(ii) Written – Retake</u>	<u>\$ 175.00</u>
<u>(iii) Practical – 1st Attempt</u>	<u>\$ 175.00</u>
<u>(iv) Practical – Retake</u>	<u>\$ 125.00</u>
<u>5. Late Renewal Fee</u>	<u>\$ 180.00</u>
<u>6. Licensure Renewal Fee (Biennial)</u>	<u>\$ 950.00</u>
<u>7. State Regulatory Fee (Biennial)</u>	<u>\$ 10.00</u>
<u>8. Council Operations Fee</u> <u>(Paid in the non-renewal year)</u>	<u>\$ 300.00</u>

(b) Apprentice Hearing Instrument Specialist

<u>Type Fee</u>	<u>Amount</u>
<u>1. Application Fee</u>	<u>\$150.00</u>

(Rule 1370-2-.06, continued)

2.	Examination and Retake Fee	\$125.00
3.	State Regulatory Fee	\$ 10.00

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-201, 63-17-203, and 63-17-210 and 63-17-215.*
Administrative History: *For Administrative History prior to November, 1987 see page 1. Repeal and new rule filed September 24, 1987; effective November 8, 1987. Repeal and new rule filed April 29, 1992; effective June 13, 1992. Repeal and new rule renumbered from 0760-1-.06 filed December 28, 1999; effective March 12, 2000. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed June 29, 2007; effective September 12, 2007.*

1370-2-.07 APPLICATION REVIEW, APPROVAL, DENIAL AND INTERVIEWS.

- (1) Application for licensure will be accepted throughout the year and processed in the Council's Administrative Office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Council's Unit Director, provided that approval of all applications is made and ratified by the Council and Board.
- (3) A temporary authorization to practice may be issued to an applicant pursuant to *T.C.A. § 63-1-142*.
- (4) If an application is incomplete when received in the Council's Administrative Office, or the reviewing Council member or Council Consultant and a Board member or the Board's Consultant determine additional information is required from an applicant before an initial determination can be made, the applicant shall be notified and the necessary information requested by the Administrative Office. The applicant shall cause the requested information to be received in the Council's Administrative Office on or before the thirtieth (30th) day after receipt of the notification.
 - (a) Such notification shall be sent by certified mail, return receipt requested, from the Council's Administrative Office.
 - (b) If the requested information is not received within the thirty (30) day period, the application file shall be closed and the applicant notified that the Council 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 applicable fees.
 - (c) At no time may an applicant sit for the practical examination until the Council's Consultant/Board Consultant has made the initial determination that the documentation in the application file has been accepted.
- (5) If a completed application file has been denied by the Council or the Board, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent to the applicant by the Council's Administrative Office by certified mail, return receipt requested. Specific reasons for the denial will be stated, such as incomplete information, unofficial records, failure of examination, and other matters judged insufficient for licensure, and such notification shall contain all the specific statutory and rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (*T.C.A. §§ 4-5-201, et seq.*) to contest the denial and the procedure necessary to accomplish that action.