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Sequence Number: 04-13-16
 Rule ID(s): 6181
 File Date: 4/20/16
 Effective Date: 7/19/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Advisory Committee for Acupuncture
Division:	
Contact Person:	Hannah Lanford, Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615)741-1611
Email:	Hannah.Lanford@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0880-12	General Rules and Regulations Governing the Practice of Acupuncturists
Rule Number	Rule Title
0880-12-.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 0880-12
General Rules and Regulations Governing the Practice of Acupuncturists

Amendment

Rule 0880-12-.06 Fees is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- | | | | |
|-----|---|----------|----------|
| (3) | Biennial renewal fee to be submitted every two (2) years when certification renewal is due. | \$300.00 | \$ 50.00 |
|-----|---|----------|----------|

Authority: T.C.A. §§ 9-4-5117, 63-1-107, 63-6-101, 63-6-1004, 63-6-1005, and 63-6-1009.

* 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)
Jill L. Kelly	X				
Serina Moore Scott	X				
Charmaine Jamieson				X	
Shelia Ann Berry-Sanders				X	
Jian Yan	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Advisory Committee for Acupuncture (board/commission/ other authority) on 08/17/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Dennis Higdon, M.D.	X				
Michael John Baron, M.D.	X				
Neal Beckford, M.D.				X	
Deborah Christiansen, M.D.				X	
Clinton A. Musil, Jr., M.D.				X	
Patricia Eller	X				
Barbara Outhier	X				
Nina Yeiser	X				
Melanie Blake, M.D.	X				
W. Reeves Johnson, Jr. MD				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners (board/commission/ other authority) on 09/16/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

Tennessee Advisory Committee for Acupuncture Rules
Rule 0880-12-.06
General Rules and Regulations Governing the Practice of Acupuncturists
Fees

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/06/15 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 08/17/15 (mm/dd/yy)

Date: 09/30/15

Signature: [Handwritten Signature]

Name of Officer: Hannah Lanford

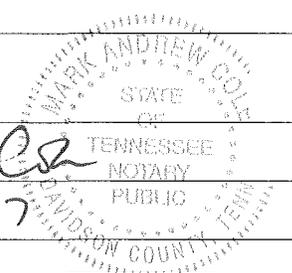
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9/30/15

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 6 2017



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 H. Slaty III
Attorney General and Reporter

4/11/2016

Date

Department of State Use Only

Filed with the Department of State on: 4/20/16

Effective on: 7/19/16

[Handwritten Signature]

Tre Hargett
Secretary of State

SECRETARY OF STATE
PUBLICATIONS

2016 APR 20 PM 4:00

RECEIVED

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

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

This rule amendment does not overlap, duplicate, or conflict with other federal, state, and local government rules.

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

This rule amendment is established with clarity, conciseness, and lack of ambiguity.

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

This rule amendment does 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.

This rule amendment does not establish friendly schedules or deadlines for compliance reporting requirements for small businesses.

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

This rule amendment does 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.

This rule amendment does not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

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

This rule amendment does not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

ame of Board, Committee or Council: Tennessee Advisory Committee for Acupuncture

Rulemaking hearing date: August 17, 2015

- 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:**

This rule amendment will affect acupuncture licensees but will not affect the additional renewal fee for Acupuncture Detoxification Specialists. Acupuncture licensees will benefit from the one hundred dollar (\$100) fee reduction.

- 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 proposed rule amendments will not affect reporting or recordkeeping and do not involve administrative costs.

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

The Board does not anticipate that there will be any adverse impacts to small businesses as small businesses could benefit from the fee reduction. These proposed rule amendments should not have any impact on consumers.

- 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 methods of achieving the purpose and/or objectives of the proposed rule amendment.

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

Federal: None.

State: Many boards, currently operating at a surplus, are reducing some licensure fees.

- 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 proposed rule amendments do not provide exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

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

This rule amendment will reduce the biennial renewal fee from four hundred dollars (\$400.00) to three hundred dollars (\$300.00).

- (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;

This rule amendment will affect acupuncture licensees but will not affect the additional renewal fee for Acupuncture Detoxification Specialists.

- (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;

This rule amendment should not result in any increase or decrease in state or local government revenues or expenditures.

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

Hannah Lanford, Assistant General Counsel, Department of Health.

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

Hannah Lanford, Assistant General Counsel, Department of Health.

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

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Hannah.Lanford@tn.gov.

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

None.

GENERAL RULES AND REGULATIONS GOVERNING
THE PRACTICE OF ACUPUNCTURISTS

CHAPTER 0880-12

(Rule 0880-12-.05, continued)

alcohol and substance abuse or chemical dependency services including counseling. Accompanying this proof must also be a certification from the supervising certified acupuncturist or medical director of the institution, facility, or entity attesting to employment and acceptance of supervisory responsibility.

- (g) Disclose the circumstances surrounding any of the following:
 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 2. The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.
 3. Loss or restriction of licensure/certification.
 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory, common or case law.
 5. Failure of any professional licensure or certification examination.
- (h) An applicant shall cause to be submitted to the Committee's administrative office directly from the vendor identified in the Committee's certification application materials, the result of a criminal background check.
- (i) Cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each licensing/certifying board of each state or country in which the applicant holds or has ever held a license/certificate to practice any profession that indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive. It is the applicant's responsibility to request this information be sent directly from each such licensing/certifying board to the Administrative Office.
- (j) Submit the fees required in Rule 0880-12-.06.

(2) Application review and limited certification decisions shall be governed by Rule 0880-12-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-214, 63-6-1002, 63-6-1004, 63-6-1005, and 63-6-1007. **Administrative History:** Original rule filed October 18, 2002; effective January 1, 2003. Amendment filed March 17, 2006; effective May 31, 2006.

0880-12-.06 FEES. All fees provided for in this rule are non-refundable.

	Acupuncturist	Acupuncture Dextoxification Specialist
(1) Application fee to be submitted at the time of application.	\$500.00	\$ 75.00
(2) Initial certification fee to be submitted at the time of application.	\$250.00	\$ 25.00
(3) Biennial renewal fee to be submitted	\$400.00	\$ 50.00

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GENERAL RULES AND REGULATIONS GOVERNING
THE PRACTICE OF ACUPUNCTURISTS

CHAPTER 0880-12

(Rule 0880-12-.06, continued)

~~every two (2) years when certification
renewal is due.~~

(3)	Biennial renewal fee to be submitted every two (2) years when certification renewal is due.	\$300.00	\$ 50.00
(4)	Late renewal fee.	\$100.00	\$ 50.00
(5)	Certification reinstatement and / or restoration fee.	\$100.00	\$ 50.00
(6)	Duplication of Certificate fee.	\$ 25.00	\$ 10.00
(7)	Biennial state regulatory fee to be submitted at the time of application.	\$ 10.00	\$ 10.00

- (8) 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 of Health Related Boards. 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 Advisory Committee for Acupuncture.

Authority: T.C.A. §§ ~~4-3-1011, 4-5-202, 4-5-204, 9-4-511~~ 63-1-106, 63-1-107, 63-6-101, 63-6-1004, 63-6-1005, and 63-6-1009. **Administrative History:** Original rule filed October 18, 2002; effective January 1, 2003. Amendment filed January 5, 2004; effective March 20, 2004. Amendment filed January 22, 2013; effective April 22, 2013.

0880-12-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.
- (2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Committee and Board designee who have both reviewed the completed application and determined that the applicant has met all the requirements for certification, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Committee or Board subsequently makes a good faith determination that the applicant has not met all the requirements for certification, renewal or reinstatement and therefore denies, limits, conditions or restricts certification, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation, conditioning or restricting of certification.
- (3) If an application is incomplete when received by the Administrative Office, or the reviewing Committee and/or Board member or the Committee's/Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator shall notify the applicant of the information required. The applicant shall cause the requested information to be received in the Administrative Office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent.