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File Date: 4/26/16

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Board of Court Reporting
Division:	Department of Commerce and Insurance
Contact Person:	Ashley N. Thomas, Assistant General Counsel
Address:	500 James Robertson Parkway
Phone:	615-741-3072
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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:	Don Coleman
Address:	500 James Robertson Parkway Davy Crockett Tower 500 James Robertson Parkway, 8th Floor Nashville, TN 37243
Phone:	615-741-0481
Email:	don.coleman@tn.gov

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

Address 1:	500 James Robertson Parkway, Davy Crockett Tower		
Address 2:	1st Floor Conference Room, 1-B		
City:	Nashville		
Zip:	37243		
Hearing Date :	06/16/16		
Hearing Time:	9:00 AM	_X_ CST/CDT ___ EST/EDT	

Additional Hearing Information:

Revision Type (check all that apply):

_X_ Amendment
_X_ New
_X_ 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	Tennessee Board of Court Reporting
Rule Number	**Rule Title**
0455-01-01-.04	Use of Forms

0455-01-01-.05	Maintenance and Inspection of Board Records
0455-01-02-.03	Verification of Tennessee License
0455-01-02-.04	Fees
0455-01-03-.01	Temporary License
0455-01-03-.02	Application for Licensure – Standard Process
0455-01-03-.03	Renewal
0455-01-03-.04	Military Applicants
0455-01-04-.01	Standards of Professional Conduct
0455-01-05-.04	Investigations and Complaints
0455-01-05-.05	Uniform Administrative Procedure Act
0455-01-05-.06	Civil Penalties
0455-01-05-.07	Reinstatement of a Suspended or Revoked License
0455-01-06-.01	Continuing Education 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)

Rule 0455-01-01-.04 is amended to read as follows:

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 Board of Court Reporting.

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

Rule 0455-01-01-.05 is amended by amending paragraphs (1), (3), and (4) and deleting paragraph (5), so as to read as follows:

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 Executive Director of the Board, public records maintained by the Board shall be available for inspection and duplication at the Board of Court Reporting during regular business hours. The inspection and duplication of public records shall be under the supervision of the Executive Director of the Board or his/her designee.

(4) Any person wishing to obtain copies of public records shall submit a written request to the Board of Court Reporting. Copies will be supplied upon payment of costs based on the most current version of the Schedule of Reasonable Charges issued by the Office of Open Records Counsel.

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

Rule 0455-01-02-.03 is amended by amending paragraph (1) and deleting paragraph (2), so as to read as follows:

0455-01-02-.03 VERIFICATION OF TENNESSEE LICENSE.

Verification of licensure will be available through the Board's website.

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

Rule 0455-01-02-.04 is amended deleting paragraph (7), so as to read as follows:

0455-01-02-.04 FEES.

(1) Fees and civil penalties are not refundable.

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

(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 civil penalties 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) Civil penalties are payable by certified check, cashier's check, corporate or business check, money order or electronic means.

(4) 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.

(5) A license may not be issued until funds are received by the Board.
(6) Standard Fee Schedule Amount

(a) License Fee.....$200

(b) Application Fee.....$50

(c) Renewal Fee.....$200

(d) Late Renewal Fee.....$20 per month, or portion thereof, up to six (6) months

(e) Temporary License Fee.....$50

(f) Temporary License Renewal Fee.....$50

(g) Reinstatement Fee.....$350

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

Rule 0455-01-03-.01 is amended by deleting the text of the rule in its entirety and substituting instead the following, so the rule, as amended, shall read:

0455-01-03-.01 TEMPORARY LICENSURE.

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. Up to three (3) additional temporary licenses may be granted upon sufficient proof of good cause for issuance.

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609, 20-9-612, and 20-9-614.

Rule 0455-01-03-.02 is amended by deleting the text of the rule in its entirety and substituting instead the following, so the rule, as amended, shall read:

0455-01-03-.02 APPLICATION FOR LICENSURE – STANDARD PROCESS.

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

(a) 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.

(b) Payment of licensure fee.

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

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

Rule 0455-01-03-.03 is amended by deleting the text of the rule in its entirety and substituting instead the following, so the rule, as amended, shall read:

0455-01-03-.03 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 statute. The holder of the license may renew such license during the sixty (60) days preceding the expiration date thereof by paying the required fee and completing the application for renewal.

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

(3) Late renewal applications may be received following expiration of license with the required fees. No late renewal will be granted if a completed application is not received by the Board within six (6) months of the expiration of the license. After six (6) months following the expiration of the license, the applicant must apply for a new license.

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

Rule 0455-01-03-.04 is amended by deleting the text of the rule in its entirety and substituting instead the following, so the rule, as amended, shall read:

0455-01-03-.04 MILITARY APPLICANTS

(1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:

(a) Be issued a license upon application and payment of all fees required for the issuance of such license, if, in the opinion of the Board, the requirements for licensure satisfied by the applicant in another state are substantially equivalent to that required in Tennessee; or

(b) Be issued a temporary permit as described herein if the Board determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including – but not limited to – education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. The Board may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type, which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient by the Board for the applicant to complete such requirements.

1. After completing those additional requirements and providing the Board with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the original issuance of the temporary permit and an expiration date as if the full license had been issued at that time.

2. A temporary permit shall be issued for a period no longer than the length of a renewal cycle for a full license of the same type.

3. A temporary permit shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the Board or by an extension of time granted for good cause by the Board.

4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Board for all other renewals of a full license of the same

type.

(2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the Board if such military education, training, or experience is determined by the Board to be substantially equivalent to the education, training, or experience required for the issuance of such license.

(3) Any licensee who is a member of the National Guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible to be renewed upon the licensee being released from active duty without:

(a) Payment of late fees or other penalties; or

(b) Obtaining continuing education credits when:

1. Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the Board; or

2. The person performs the licensed occupation as part of such person's military duties and provides documentation sufficient to demonstrating such to Board.

(4) The license shall be eligible for renewal pursuant to Paragraph (3) for six (6) months from the person's release from active duty.

(5) Any person renewing under Paragraph (3) shall provide the Board such supporting documentation evidencing activation as may be required by the Board prior to the renewal of any license pursuant to Paragraph (3).

Authority: T.C.A. §§ 4-3-1304(d)(1) and 20-9-605.

Rule 0455-01-04-.01 is amended by amending paragraphs (1)(c), (1)(e), (1)(g), (1)(k), adding paragraph(1)(l) and renumbering paragraphs (1)(m-o), and amending paragraph (1)(p) so that the rule reads as follows:

0455-01-04-.01 STANDARDS OF PROFESSIONAL CONDUCT.

(1) 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:

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

(b) Should only accept an assignment if his/her level of competence will result in the preparation of an accurate transcript and will remove the licensee from an assignment if they believe their abilities are inadequate, recommending or assigning another licensee only if such licensee has the competence required for such assignment.

(c) Shall provide information regarding services to be rendered regarding administration of professional services to all parties and shall make timely delivery of transcripts.

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

(e) Should immediately seek inactive status and refrain from practice if they become impaired and unable to function according to the standards of practice.

(f) 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.

(g) 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 (5) years.

(h) Shall affix the licensee's signature, license number and expiration date to a transcript to certify to its accuracy.

(i) Shall not authorize the use of the licensee number on any transcript not produced through the personal effort or supervision, or both.

(j) Shall not permit the use of the licensee 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.

(k) Shall inform the Board of Court Reporting if they have knowledge that another court reporter has committed a violation of these 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.

(l) Shall cooperate with any investigation resulting from a complaint for disciplinary action.

(m) Shall not commit a criminal act that reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter.

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

(o) Shall meet all mandated continuing education requirements and should keep abreast of current literature and technological advances and developments as related to the profession of court reporting.

(p) Shall refrain from giving, directly or indirectly, any gift, incentive, reward or anything of value to attorneys or any other persons or entities associated with the litigation, except for items that do not exceed twenty-five dollars ($25.00) in the aggregate per individual each year.

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

Rule 0455-01-05-.04 is amended by deleting the text of the rule in its entirety and substituting instead the following, so the rule, as amended, shall read:

0455-01-05-.04 INVESTIGATIONS AND COMPLAINTS.

(1) The Board may investigate any person engaged, or suspected of engaging, in any business or activity regulated under the Tennessee Court Reporter Act of 2009.

(2) Upon receipt of any written complaint regarding any licensee or person engaged in unlicensed activity, the Board shall provide a copy of the written complaint to the accused party within five (5) days. Such party shall file a written answer to the complaint, within twenty (20) days, upon request by the Board.

Rule 0455-01-05-.05 is amended by deleting the text of the rule in its entirety and substituting and renumbering rule 0455-01-05-.06, so the rule, as amended, shall read:

0455-01-05-.05 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.

Rule 0455-01-05-.06 is amended by moving the text of the rule in its entirety to 0455-01-05-.05 and substituting instead the following, so the rule, as amended, shall read:

0455-01-05-.06 CIVIL PENALTIES.

(1) With respect to any licensed court reporter or temporarily licensed court reporter, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate statutory or regulatory violation, not to exceed five hundred dollars ($500.00) per violation.

(2) With respect to any person required to be licensed in this state as a court reporter, the Board may assess a civil penalty against such person for each separate statutory or regulatory violation not to exceed five hundred dollars ($500.00) per violation.

(3) Each daily violation constitutes a separate offense.

(4) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk of harm to the public;

(d) The economic benefits gained by the violator as a result of noncompliance;

(e) The interest of the public; and

(f) Willfulness of the violation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, and 56-1-308.

Rule 0455-01-05-.07 is amended by inserting the text of rule 0455-01-05-.11, so the rule, as amended, shall read:

0455-01-05-.07 REINSTATEMENT OF A SUSPENDED OR REVOKED LICENSE.

(1) Application for reinstatement shall include evidence of corrective action taken by the licensee. Such application shall be made utilizing the forms provided by the Board.

(2) 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 suspension or revocation of the license.

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

(c) Lapse of time since suspension or 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 implied representation 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.

Rule 0455-01-05-.08 is amended by deleting the text of the rule in its entirety.

Rule 0455-01-05-.09 is amended by deleting the text of the rule in its entirety.
Rule 0455-01-05-.10 is amended by deleting the text of the rule in its entirety.

Rule 0455-01-06-.01 is amended by adding paragraph (6), so that the rule reads as follows:

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 (2) 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 the year of license expiration.

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

(4) A continuing education (CE) hour means a minimum of fifty (50) minutes of actual clock time spent by a licensee in actual attendance at and completion of an approved continuing education (CE) activity. After completion of the initial continuing education (CE) hour, credit may be given in half hour (.5) increments.

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

(6) Failure to obtain the requisite continuing education (CE) credits will result in an incomplete application and will cause the application to not be processed.

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

Rule 0455-01-06-.05 is amended by deleting the text of the rule in its entirety.
Rule 0455-01-06-.06 is amended by deleting the text of the rule in its entirety.

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: 4/25/16

Signature: Ashley N. Thomas

Name of Officer: Ashley N. Thomas

Title of Officer: Assistant General Counsel

MARGARET WILLIAMS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires 11-06-2017

Subscribed and sworn to before me on: 4/25/16

Notary Public Signature: Margaret Williams

My commission expires on: 11/6/17

Department of State Use Only

Filed with the Department of State on: 4/26/16

Tre Hargett
Secretary of State

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