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Sequence Number: 05-11-13
Rule ID(s): 5479
File Date: 5/16/13
Effective Date: 8/14/13

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:	Board of Medical Examiners
Division:	Polysomnography Professional Standards Committee
Contact Person:	Mary Katherine Bratton, Esq.
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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
0880-14	General Rules and Regulations Governing the Practice of Polysomnography
Rule Number	Rule Title
0880-14-.02	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 0880-14
General Rules Governing the Practice of Polysomnography

Amendments

Rule 0880-14-.02 Fees, is amended by deleting the language of paragraphs (1) and (2) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1) and (2) shall read:

- | | | |
|-----|----------------------|----------|
| (1) | Application Fee | \$200.00 |
| (2) | Biennial Renewal Fee | \$120.00 |

Authority: T.C.A. §§ 63-31-104 and 63-31-106.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Committee Member	Aye	No	Abstain	Absent	Signature (if required)
Kristin W. Lester	X				
Madelyn K. Cunningham	X				
Bryan Hughes				X	
Donald A. Samples	X				
Donna J. Lovitt	X				
Roxanne M. Valentino, M.D.	X				
Jim O. Donaldson	X				

Roll call vote by the Board of Medical Examiners on these rulemaking hearing rules was as follows:

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				
Jeff P. Lawrence, M.D.	X				
Neal Beckford, M.D.	X				
Keith Lovelady, M.D.	X				
Clinton Allen Musil, Jr., M.D.	X				
Patricia Eller	X				
Barbara Outhier				X	
Nina Yeiser				X	
William Reeves Johnson, M.D.	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Polysomnography Professional Standards Committee on 02/26/13, 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: 01/4/13

Rulemaking Hearing(s) Conducted on: (add more dates). 02/26/13

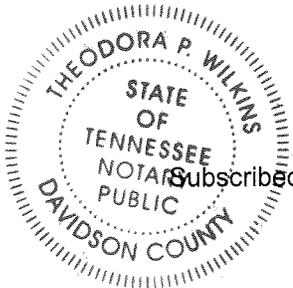
Date: 3/19/13

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton

Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 3/19/13

Notary Public Signature: Theodore P. Wilkins

My commission expires on: 11/3/15

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

Robert E. Cooper, Jr.
Attorney General and Reporter

5-9-13

Date

Department of State Use Only

Filed with the Department of State on: *5/16/13*

Effective on: *8/14/13*

Tre Hargett

Tre Hargett
Secretary of State

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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 received at the public hearing.

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 extent to which the rule or rules 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 business.

The compliance requirements contained in the rules are the same for large or small businesses and are as flexible as possible while still allowing the Committee to achieve its mandated mission of protecting the health, safety, and welfare of Tennesseans and its obligation to be financially self-sustaining.

4. The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

These rule amendments do not contain any schedules or deadlines. Compliance requirements contained in the rules are the same for large or small businesses.

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

Compliance requirements contained in the rules are the same for large or small businesses.

6. The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rules.

These rules do not establish performance, 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 unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT

1. **Name of Board, Committee or Council:** Polysomnography Professional Standards Committee
2. **Rulemaking hearing date:** February 26, 2013
3. **Type or types of small businesses that will be directly affected by the proposed rules:**

Polysomnographic Technologists, and individuals desirous of becoming licensed as Polysomnographic Technologists. There are currently approximately two hundred fifty (250) Polysomnographic licensees.
4. **Types of small businesses that will bear the cost of the proposed rules:**

Polysomnographic Technologists will individually bear the burden of the proposed fee increase.
5. **Types of small businesses that will directly benefit from the proposed rules:**

There are no anticipated benefits to small businesses.
6. **Description of how small business will be adversely impacted by the proposed rules:**

The proposed fee increase may cause an economic inconvenience for Polysomnographic licensees; however, there are no increased or new reporting, recordkeeping, or other administrative duties and/or costs associated with the rule amendment.
7. **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:**

There are no alternative means which are less burdensome, intrusive, or costly.
8. **Comparison of the proposed rule with any federal or state counterparts:**
 - (a) **Federal:** There are no Federal counterparts.
 - (b) **State:** The fee increase is not out of proportion with other Health Related Boards in Tennessee.

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)

This rule amendment is not expected to have an 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 raises the application fee and biennial renewal fee for Polysomnographic Technologists.

- (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;

The Committee is not aware of any such law.

- (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;

Polysomnographic Technologists are affected by this rule. It is necessary to ensure that the Polysomnographic Professional Standards Committee becomes self-sufficient as statutorily mandated.

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

The Committee is not aware of any such opinion or ruling.

- (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 Committee is not currently self-sufficient, and this fee change is directed towards attaining self-sufficiency. There will be minimal impact outside of the Polysomnography Professional Standards Committee.

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

Mary Katherine Bratton, Assistant General Counsel for the Polysomnography Professional Standards Committee.

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

Mary Katherine Bratton, 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

220 Athens Way, Suite 210, Nashville, TN 37243; (615) 741-1611; Mary.Bratton@tn.gov

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

(Rule 0880-14-.01, continued)

Authority: T.C.A. §§ 63-31-101 and 63-31-104. **Administrative History:** Original rule filed March 2, 2010; effective May 31, 2010.

0880-14-.02 FEES. The following fees are nonrefundable and apply to all applicants and licensees.

(1)	Application Fee	\$100.00 <u>\$200.00</u>
(2)	Biennial Renewal Fee	\$50.00 <u>\$120.00</u>
(3)	State Regulatory Fee - To be paid upon application and annually thereafter to be collected at biennial renewal from all license holders.	\$ 5.00 (\$10.00 biennially)
(4)	Late Renewal Fee	\$ 50.00
(5)	Replacement License Fee	\$ 25.00

Authority: T.C.A. §§63-1-106, 63-1-112, 63-31-104, and 63-31-106. **Administrative History:** Original rule filed March 2, 2010; effective May 31, 2010.

0880-14-.03 QUALIFICATIONS FOR LICENSURE.

- (1) Polysomnographic Technologist - To become licensed as a polysomnographic technologist an applicant must comply with the following procedures and requirements:
 - (a) An applicant shall complete an application that can be obtained from the Committee Office. The application form is not acceptable if any portion of it or any other documents required to be submitted by this rule or the application itself have been executed and dated prior to one year before filing with the Committee.
 - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and these rules to the Committee Office. The required fees (application fee and state regulatory fee) may be paid in person, by mail or electronically by cash, check, money order, or by credit 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 Polysomnography Professional Standards Committee.
 - (c) An applicant shall submit all documentation in support of an application to the Committee Office. All supporting documents must be received in the Committee Office within ninety (90) days of receipt of the application or the file will be closed. When necessary, all required documents shall be translated into English and such translation as well as the original document certified as to authenticity by the issuing source. Both versions must be submitted.
 - (d) An applicant shall have the Tennessee Bureau of Investigation send the result of a criminal background check of the applicant directly to the Committee Office.
 - (e) An applicant shall cause to be submitted to the Committee Office two letters of reference from any of the following providers:
 1. A supervising physician,