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Sequence Number: 08-18-12  
 Rule ID(s): 5286-5288  
 File Date: 8/23/12  
 Effective Date: 11/21/12

# 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*

<b>Agency/Board/Commission:</b>	Tennessee Board of Chiropractic Examiners
<b>Division:</b>	
<b>Contact Person:</b>	Christopher M. Smith
<b>Address:</b>	Department of Health Office of General Counsel 220 Athens Way, Suite 210 Nashville, Tennessee
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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
0260-02	General Rules Governing Chiropractic Examiners
Rule Number	Rule Title
0260-02-.06	Fees
0260-02-.24	Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies

Chapter Number	Chapter Title
0260-03	General Rules Governing Chiropractic X-Ray Technologists
Rule Number	Rule Title
0260-03-.06	Fees

Chapter Number	Chapter Title
0260-05	General Rules Governing Chiropractic Therapy Assistants
Rule Number	Rule Title
0260-05-.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>)

Amendments

Chapter 0260-02  
General Rules Governing Chiropractic Examiners

Rule 0260-02-.06 Fees is amended by deleting the language of subparagraph (4)(c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph(4)(c) shall read:

(c) Renewal (biennial) 250.00

Authority: T.C.A. §§ 63-4-103 and 63-4-112.

Rule 0260-02-.24 Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies is amended by deleting the language of subparagraph (1)(b) in its entirety and substituting instead the following language, and by deleting the language of subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (1)(b) and (2)(b) shall read:

- (1)(b) Ownership of Stock – With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or
  2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
    - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
    - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
    - (iii) A combination of professionals authorized by subparts (i) and (ii).
- (2)(b) Membership – With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or
  2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

- (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
- (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
- (iii) A combination of professionals authorized by subparts (i) and (ii).

Authority: T.C.A. §§ 63-4-103 and 63-4-119.

Chapter 0260-03  
General Rules Governing Chiropractic X-Ray Technologists

Rule 0260-03-.06 Fees is amended by deleting the language of subparagraphs (1)(a) and (1)(c) in their entirety and substituting the following language, so that as amended the new subparagraphs (1)(a) and (1)(c) shall read:

(a)	Application	\$150.00
(c)	Renewal	\$100.00

Authority: T.C.A. §§ 63-4-103 and 63-4-119.

Chapter 0260-05  
General Rules Governing Chiropractic Therapy Assistants

Rule 0260-05-.06 Fees is amended by deleting the language of subparagraphs (4)(a) and (4)(c) in their entirety and substituting the following language, so that as amended the new subparagraphs (4)(a) and (4)(c) shall read:

(a)	Application	\$150.00
(c)	Renewal	\$100.00

Authority: T.C.A. §§ 63-4-103 and 63-4-123.

\* 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)
Michael Massey, DC	X				
Craig Ratliff, DC	X				
Chris Alexander, DC	X				
Andrea Selbey, DC	X				
Richard Cole, DC	X				
Gina Hampton				X	
Sheila Fitzgerald				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Chiropractic Examiners on 05/24/2012, 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: 02/28/12

Rulemaking Hearing(s) Conducted on: (add more dates). 05/24/12

Date: 6/4/12

Signature: *[Handwritten Signature]*

Name of Officer: Christopher M. Smith

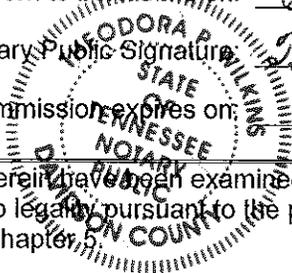
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 6/4/12

Notary Public Signature: *Theodora 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.

*[Handwritten Signature]*  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
8-16-12  
 Date

RECEIVED  
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Filed with the Department of State on: 8/23/12

Effective on: 11/21/12

*Tre Hargett*  
 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.

### **Board of Chiropractic Examiners Rulemaking Hearing - May 24, 2012**

#### **Public Comments**

John Williams, Esq., representing the Tennessee Chiropractic Association, addressed the Board in support of the proposed change in Rule 0260-02-.24 (Chiropractic Professional Corporations and Chiropractic Professional Limited Liability Companies). Mr. Williams explained that the rule change would fully implement the intent of the legislature in passing Chapter 45 of the Public Acts of 2003, which amended the corporation and PLLC statutes. Specifically, the change would permit chiropractors to co-own practices with medical doctors and osteopaths, but not other health care providers or non-health care providers.

The Board thanked Mr. Williams for his comments.

### **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.

(If applicable, insert Regulatory Flexibility Addendum here)

### **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.**

Compliance requirements contained in the rules are the same for large or small businesses and are as flexible as possible while still allowing the Board to achieve its mandated mission of protecting the health, safety and welfare of Tennesseans.

**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 to entry into business nor do they stifle entrepreneurial activity, curb innovation, or increase costs.

## ECONOMIC IMPACT STATEMENT

### 1. TYPES OF SMALL BUSINESSES DIRECTLY AFFECTED:

Chiropractors, Chiropractic X-ray Technologists and Chiropractic Therapy Assistants.

### 2. PROJECTED REPORTING, RECORDKEEPING AND OTHER ADMINISTRATIVE COSTS:

There are no projected additional administrative costs as a result of these amendments. These amendments will reduce the Board's income but will not have a significant impact on its ability to remain solvent.

### 3. PROBABLE EFFECT ON SMALL BUSINESSES:

These amendments will have a positive impact on small business in the following foreseeable ways: 1) financial burden will be decreased on all licensees and prospective licensees and 2) practitioners will be able to form corporations consistent with the current law—both effects will ultimately have a positive impact on business growth in Tennessee.

### 4. LESS BURDENSOME, INTRUSIVE OR COSTLY ALTERNATIVE METHODS:

There are no alternative means which are less burdensome, intrusive or costly.

### 5. COMPARISON WITH FEDERAL AND STATE COUNTERPARTS:

There are no Federal counterparts.

### 6. EFFECT OF POSSIBLE EXEMPTION OF SMALL BUSINESSES:

If an exemption were provided to the small businesses affected by these rule amendments those small businesses would be deprived of all the benefits resulting from the amendments.

## **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 amendments to the rules are not expected to have an 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 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;

The rule amendments reduce the biennial renewal fee for Chiropractors from \$275 to \$250, reduce the Chiropractic Therapy Assistant (CTA) application fee from \$200 to \$150 and CTA renewal fee from \$125 to \$100, increase the Chiropractic X-Ray Technologist application fee from \$130 to \$150 and decrease the X-Ray Tech renewal fee from \$125 to \$100. The amendments also allow Medical Doctors and/or Osteopathic Physicians to own shares of Chiropractic Professional Corporations (CPCs) and be members or holders of financial interests in Chiropractic Professional Limited Liability Companies (CPLLCs), rendering the rules consistent with both the referenced statutes and with the rules of similar healthcare professions. Previously, only Chiropractors could own shares or be members of CPCs or CPLLCs.

- (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;

T.C.A. §§ 48-101-610, 48-248-401, and 48-249-1109, referenced in the rule amendment, now permit co-ownership of CPCs or CPLLCs by Chiropractors, Medical Doctors, and/or Osteopathic Physicians.

- (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;

Affected persons or entities include licensed chiropractors, licensed chiropractic x-ray technologists, licensed chiropractic therapy assistants, Chiropractic Professional Corporations (CPCs), and Chiropractic Professional Limited Liability Companies (CPLLCs). The fee reductions are to the benefit of licensees, and the Tennessee Chiropractic Association supports the rule changes regarding ownership of CPCs and CPLLCs.

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

N/A

- (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;

Based on the average number of applications received annually, the number of current licensees, and the amount of the fee changes, the Board of Chiropractic Examiners would have an estimated annual revenue decrease of approximately \$22,850, or 11% of its annual revenue. There would be no fiscal impact on the Department of Health.

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

Chris Smith, Assistant General Counsel, Tennessee Department of Health

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

Chris Smith, Assistant General Counsel, Tennessee 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

Tennessee Department of Health  
Office of General Counsel  
220 Athens Way, Suite 210  
Nashville, TN 37243  
Main: 615-741-1611  
Direct: 615-253-4212  
Fax: 615-532-7749  
Christopher.M.Smith@tn.gov

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

N/A

(Rule 0260-02-.05, continued)

- (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (h) If an applicant holds or has ever held a license to practice as a chiropractic physician in another state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of endorsement (verification of license) from the licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive. The applicant must be licensed in at least one (1) other state for a period of two (2) full years.
- (i) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (j) Personal resumes are not acceptable and will not be reviewed.
- (k) Application review and licensure decisions shall be governed by rule 0260-02-.07.
- (l) Examination of licensure by criteria (reciprocity) applicants.
  - 1. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years will not be required to have passed Parts 1, 2, 3, and 4 of the National Board Examination.
  - 2. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years shall provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
- (m) All other reciprocity applicants will be required to have passed the National Board as a pre-requirement pursuant to rule 0260-02-.08.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-108, 63-4-109, 63-4-110, 63-4-111, 63-4-114, and Public Chapter 618 of the Public Acts of 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Amendment filed December 8, 1989; effective January 22, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed March 17, 2006; effective May 31, 2006.

#### **0260-02-.06 FEES.**

- (1) The fees are as follows:
  - (a) Application and Criteria (Reciprocity) fee - A fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.
  - (b) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license.

(Rule 0260-02-.06, continued)

- (c) Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.
  - (d) Replacement License or Certificate fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.
  - (e) State Regulatory fee - To be paid by all individuals at the time of application and with all renewal applications.
  - (f) Externship Certificate fee - To be paid by all individuals at the time of application who are requesting to be issued an externship certificate.
- (2) All fees shall be established by the board. Fees may be reviewed and changed at the discretion of the board, except as otherwise provided by statute.
  - (3) 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 Board of Chiropractic Examiners.

(4) Fee Schedule:	Amount
(a) Application	\$350.00
(b) Late Renewal	50.00
<del>(c) Renewal (biennial)</del>	<del>275.00</del>
<u>(c) Renewal (biennial)</u>	<u>250.00</u>
(d) Replacement License or Certificate	75.00
(e) Criteria (Reciprocity)	350.00
(f) Externship Certificate	100.00
(g) State Regulatory (biennial)	10.00

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-1-118, 63-4-103, 63-4-106, 63-4-107, 63-4-108, 63-4-110, 63-4-111, 63-4-112, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 17, 1996; effective March 1, 1997. Amendment filed March 20, 1997; effective June 3, 1997. Amendment filed May 6, 1999; effective July 18, 1999. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed March 18, 2003; effective June 1, 2003.

**0260-02-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.**

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director, provided that approval of all applications is made and ratified by the board.

(Rule 0260-02-.23, continued)

## 5. Fraud or theft.

- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-51-101, et seq., and Public Chapter 373 of the Public Acts of 1999. **Administrative History:** Original rule 0260-02-.23 filed March 14, 2000; effective May 28, 2000.

**0260-02-.24 CHIROPRACTIC PROFESSIONAL CORPORATIONS AND CHIROPRACTIC PROFESSIONAL LIMITED LIABILITY COMPANIES.**

- (1) Chiropractic Professional Corporations (CPC) – Except as provided in this rule Chiropractic Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.

- (a) Filings – A CPC need not file its Charter or its Annual Statement of Qualifications with the Board.

- ~~(b) Ownership of Stock – Only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:~~

- ~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~

- ~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians.~~

- (b) Ownership of Stock – With the exception of the health care professional combinations specifically enumerated in T.C.A. § 48-101-610, only the following may form and own shares of stock in a foreign or domestic CPC doing business in Tennessee:

1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or

2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:

- (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or

- (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or

- (iii) A combination of professionals authorized by subparts (i) and (ii).

(Rule 0260-02-.24, continued)

(c) Officers and Directors of Chiropractic Professional Corporations -

1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule:
  - (i) Secretary;
  - (ii) Assistant Secretary;
  - (iii) Treasurer; and
  - (iv) Assistant Treasurer.
2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a chiropractic professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule shall be directors of a CPC.

(d) Practice Limitations

1. Engaging in, or allowing another chiropractic physician incorporator, shareholder, officer, or director, while acting on behalf of the CPC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).
  2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPC.
  3. Nothing in these rules shall be construed as prohibiting a CPC from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician incorporators, directors, officers, shareholders, employees or contractors of the CPC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from owning shares of stock in any type of professional corporation other than a CPC so long as such ownership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
- (2) Chiropractic Professional Limited Liability Companies (CPLLC) - Except as provided in this rule Chiropractic Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapter 248 or Public Chapter 286 of the Public Acts of 2005.
- (a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.
  - ~~(b) Membership - Only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:~~

(Rule 0260-02-.24, continued)

- ~~1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or~~
  - ~~2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians.~~
- (b) Membership – With the exception of the health care professional combinations specifically enumerated in T.C.A. §§ 48-248-401 and 48-249-1109, only the following may be members or holders of financial rights of a foreign or domestic CPLLC doing business in Tennessee:
1. Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 or licensed in another state; and/or
  2. A foreign or domestic general partnership, CPC or CPLLC in which all partners, shareholders, members or holders of financial rights are either:
    - (i) Chiropractic physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapter 4 to practice chiropractic in Tennessee or chiropractic physicians licensed by other states, or composed of entities which are directly or indirectly owned by such licensed chiropractic physicians; and/or
    - (ii) Professionals authorized by T.C.A. §§ 48-101-610 or 48-248-401 or 48-249-1109 to either own shares of stock in a CPC or be a member or holder of financial rights in a CPLLC; and/or
    - (iii) A combination of professionals authorized by subparts (i) and (ii).
- (c) **Managers, Directors or Governors of a CPLLC**
1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. § 48-248-401 and subparagraph (2) (b) of this rule:
    - (i) Secretary
    - (ii) Treasurer
  2. Only persons who are eligible to form or become members or holders of financial rights of a chiropractic professional limited liability company as limited by T.C.A. § 48-248-401 and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a CPLLC.
- (d) **Practice Limitations**
1. Engaging in, or allowing another chiropractic physician member, officer, manager, director, or governor, while acting on behalf of the CPLLC, to engage in, chiropractic practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the

(Rule 0260-02-.24, continued)

- professional ethics enumerated in Rule 0260-02-.13 and/or Tennessee Code Annotated, Section 63-4-114 (4).
2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a CPLLC.
  3. Nothing in these rules shall be construed as prohibiting a CPLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Limited Liability Company Act or the Tennessee Revised Limited Liability Company Act so long as those purposes do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician members or holders of financial rights, governors, officers, managers, employees or contractors of the CPLLC who are practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  4. Nothing in these rules shall be construed as prohibiting a chiropractic physician from being a member of any type of professional limited liability company other than a CPLLC so long as such membership interests do not interfere with the exercise of independent chiropractic judgment by the chiropractic physician while practicing chiropractic as defined by Tennessee Code Annotated, Section 63-4-101.
  5. All CPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 or Public Chapter 286 of the Public Acts of 2005, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a CPC or a CPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.
- (a) Service of a written notice of violation by the Board on the registered agent of the CPC and/or CPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005 occurs.
  - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
  - (c) The notice of violation shall state that the CPC and/or CPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
  - (d) The notice of violation shall state that, if the Board finds that the CPC and/or CPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
  - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the CPC and/or CPLLC, through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney

(Rule 0260-02-.24, continued)

general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.

- (f) If, after the proceeding the Board finds that a CPC and/or CPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1)-(3) and/or 48-248-409 (1)-(3) and/or Public Chapter 286 of the Public Acts of 2005.
- (4) Violation of this rule by any chiropractic physician individually or collectively while acting as a CPC or as a CPLLC may subject the chiropractic physician(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-4-114 (4).
- (5) The authority to own shares of stock or be members or holders of financial rights in an CPC or an CPLLC granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-4-101, 63-4-106, 63-4-107, 63-4-114, and Public Chapter 286 of the Public Acts of 2005. **Administrative History:** Original rule filed December 18, 2003; effective March 2, 2004. Amendment filed March 16, 2007; effective May 30, 2007.

#### 0260-02-.25 FREE HEALTH CLINIC AND VOLUNTEER PRACTICE REQUIREMENTS.

- (1) Free Health Clinic Practice Pursuant to T.C.A. §63-1-201.
- (a) Any chiropractor licensed to practice chiropractic in this state or any other state who has not been disciplined by any licensure board may have his/her license converted to or receive a Tennessee "Special Volunteer License," as defined in T.C.A. §63-1-201, which will entitle the licensee to practice without remuneration solely within a "free health clinic," as defined by T.C.A. §63-1-201, at a specified site or setting by doing the following:
1. Obtaining from the Board's administrative office a "Special Volunteer License" application, completing it and submitting it along with any required documentation to the Board's administrative office; and
  2. Have the licensing authority of every state in which the chiropractor holds or ever held a license to practice submit directly to the Board's administrative office the equivalent of a "certificate of fitness" as described in T.C.A. §63-1-118 which shows that the license has never been subjected to any disciplinary action and is free and clear of all encumbrances; and
  3. For chiropractors who have not been licensed in Tennessee, comply with all provisions of subparagraphs (2) (d), (2) (e), and (2) (f) of rule 0260-02-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§63-51-101, et seq.; and
  4. Submitting the specific location of the site or setting of the free health clinic in which the licensee intends to practice along with proof of the clinic's private, and not-for-profit status.

(Rule 0260-03-.05, continued)

- (a) If an applicant holds or has ever held a chiropractic x-ray technologists' certificate in another state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of certification) from each such licensing board which indicates the applicant holds or held an active certificate and whether it is in good standing presently or was at the time it became inactive.
- (b) If a certificate is not in good standing or is inactive, before becoming certified the applicant must conform to rule 0260-03-.04 (1) (e) and upon satisfactory proof as attested by the supervising doctor's signature on a form provided by the board, the applicant will be certified.
- (c) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (d) Personal resumes are not acceptable and will not be reviewed.
- (e) Application review and certification decisions shall be governed by rule 0260-03-.07.
- (f) Either of the following will result in qualifying an applicant for chiropractic x-ray certification.
  - 1. Carrying the burden of proving by a preponderance of the evidence that his/her course work, supervision, and experience are equivalent to the board's requirements, or
  - 2. Provide evidence of certification from either The American Chiropractic Registry of Radiological Technologist or the American Registry of Radiological Technologist.

**Authority:** T.C.A. §§4-5-202, 4-5-203, 4-5-204, 63-4-103, 63-4-106, 63-4-114, and 63-4-119.  
**Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed March 17, 2006; effective May 31, 2006.

**0260-03-.06 FEES.**

(1) Fee Schedule	Amount
<del>(a) Application</del>	<del>\$ 130.00</del>
(a) Application	\$ 150.00
(b) Late Fee	\$ 75.00
<del>(c) Renewal</del>	<del>\$ 125.00</del>
(b) Renewal	\$ 100.00
(d) Reciprocity	\$ 100.00
(e) Replacement Certificate	\$ 75.00
(f) State Regulatory (biennial)	\$ 10.00

(Rule 0260-03-.06, continued)

- (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 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 Board of Chiropractic Examiners.

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-4-106, and 63-4-119. **Administrative History:** Original rule filed December 17, 1996; effective March 1, 1997. Amendment filed March 18, 2003; effective June 1, 2003. Amendment filed October 10, 2005; effective December 24, 2005.

#### **0260-03-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.**

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director, provided that approval of all applications is made and ratified by the board.
- (3) If an application is incomplete when received in the board's administrative office, a deficiency letter will be sent to the applicant notifying him/her of the deficiency. The requested information must be received in the board's administrative office on or before the 30th day after the applicant's receipt of the notification.
  - (a) Such notification shall be sent certified mail return receipt requested from the board's administrative office.
  - (b) If the requested information is not received within the 30 day period, the application file shall be closed and the applicant notified. No further board action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.
- (4) An individual who has a complete application (application, fees, and all supporting documents) on file in the board's administrative office at least 30 days prior to the examination date will be scheduled to write the examination.
- (5) If a completed application has been denied and ratified as such by the board the action shall become final and the following shall occur:
  - (a) A notification of the denial shall be sent by the board's administrative office by certified mail, return receipt requested, specifying reasons for denial such as incomplete information, unofficial records, examination failure, or other matters judged insufficient for certification and such notification shall contain all the specific statutory or 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. §§4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
  - (c) An applicant has a right to a contested case hearing only if the certification denial is based on subjective or discretionary criteria.
  - (d) An applicant may be granted a contested case hearing if certification denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the board's administrative staff, the certification application can not be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the board within 30

(Rule 0260-05-.05, continued)

contract, antitrust activity, or any other civil action remedy recognized under the country's or state's statutory, common or case law.

- (m) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

(3) Certification by grandfathering

- (a) An application packet shall be requested from the board's administrative office.
- (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 board's administrative office.
- (c) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application or the file will be closed.
- (d) An applicant shall submit with his/her application a signed passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant on the back of the photograph.)
- (e) An applicant shall disclose the circumstances surrounding any of the following:
  - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violation.
  - 2. The denial of certification application by any state or the discipline of a health care certificate in any state.
  - 3. Loss or restriction of certification.
  - 4. Any civil 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.
- (f) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-114, and 63-4-123. **Administrative History:** Original rule filed February 9, 2000; 60-day stay filed February 24, 2000; effective June 23, 2000. Repeal and new rule filed November 15, 2000; effective January 30, 2001. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed March 17, 2006; effective May 31, 2006.

**0260-05-.06 FEES.**

- (1) The fees are as follows:

- (a) Application fee - A non-refundable fee to be paid by all applicants for initial certification. It must be paid each time an application for initial certification is filed.
- (b) Late Renewal fee-A non-refundable fee to be paid when an individual fails to timely renew a certificate.

(Rule 0260-05-.06, continued)

- (c) Renewal fee-A non-refundable fee to be paid by all certificate holders. This fee also applies to individuals who reactivate a retired or lapsed certificate.
  - (d) Reciprocity/Endorsement fee-A non-refundable fee to be paid at the time of application in addition to the application fee for those seeking certification by criteria.
  - (e) Replacement certificate fee-A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" certificate.
  - (f) State Regulatory fee-To be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees shall be established by the board. Fees may be reviewed and changed at the discretion of the board.
  - (3) 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 Board of Chiropractic Examiners.

(4) Fee Schedule	Amount
<del>(a) Application</del>	<del>\$ 200.00</del>
(a) Application	\$150.00
(b) Late Fee	\$ 100.00
<del>(c) Renewal</del>	<del>\$ 125.00</del>
(c) Renewal	\$ 100.00
(d) Reciprocity	\$ 150.00
(e) Replacement Certificate	\$ 75.00
(f) State Regulatory (biennial)	\$ 10.00

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-1-108, 63-1-112, 63-4-103, 63-4-105, 63-4-106, and 63-4-123. **Administrative History:** Original rule filed February 9, 2000; 60-day stay filed February 24, 2000; effective June 23, 2000. Repeal and new rule filed November 15, 2000; effective January 30, 2001. Amendment filed March 18, 2003; effective June 1, 2003. Amendment filed October 10, 2005; effective December 24, 2005.

#### 0260-05-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director or designee.
- (3) If an application is incomplete when received in the board's administrative office, a deficiency letter will be sent to the applicant notifying him/her of the deficiency.