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Sequence Number: 08-40-09
Rule ID(s): 4331
File Date: 08/27/2009
Effective Date: 11/25/2009

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Board of Osteopathic Examination
Division:	
Contact Person:	Mona Nicole Jean-Baptiste
Address:	Office of General Counsel Department of Health 220 Athens Way, Suite 210 Plaza I, Metro Center Nashville, Tennessee
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Revision Type (check all that apply):

x Amendment
___ New
___ Repeal

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

Chapter Number	**Chapter Title**
1050-02	General Rules and Regulations Governing the Practice of Osteopathy
Rule Number	**Rule Title**
1050-02-.12	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)

Substance of Proposed Rules

Chapter 1050-02
General Rules Governing and Regulations Governing the Practice of Osteopathy

Amendments

Rule 1050-02-.12, Continuing Education Requirements, is amended by deleting the text of subsection (1)(a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(a) shall read:

(1) (a) During the two (2) calendar years that precede licensure renewal, all licensees must complete forty (40) hours of courses approved by the Board in Category I-A, II-A and/or I-B continuing medical education as defined in the most current annual American Osteopathic Association Yearbook and Directory.

Authority: T.C.A. § 63-9-107

Rule 1050-02-.12, Continuing Education Requirements, is further amended by inserting the following language as new subparagraph (1)(c) and renumbering the current subparagraphs (1)(c), (1)(d) and (1)(e) as (1)(d), (1)(e) and (1)(f) respectively:

(1) (c) Osteopathic physicians serving as preceptors in any AOA approved osteopathic medical education program may be granted one (1) Category I-B credit for each hour of preceptor work actually performed, up to a maximum of fifty percent (50%) of the total biennially required continuing medical education.

Authority: T.C.A. § 63-9-107.

* 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)
Karen R. Shepherd, DO	X				
Janis E. Hinton	X				
Donald H. Polk, D.O.	X				
Jill Robinson, D.O.	X				
Rafael M. Sanchez, D.O.	X				
Paul G. Smith, Jr., D.O.				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Osteopathic Examination (board/commission/ other authority) on 03/04/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *12/15/08 (mm/dd/yy)*

Notice published in the Tennessee Administrative Register on: *01/15/09(mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *03/04/09 (mm/dd/yy)*

Date: 03/06/09

Signature: Mona Jean-Baptiste

Name of Officer: Mona N. Jean-Baptiste

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 3/20/09

Notary Public Signature:

My commission expires on: 1/23/2010

VICTORY R. LAWLESS NOTARY PUBLIC STATE OF TENNESSEE DAVIDSON COUNTY

My Commission Expires JAN. 23, 2010

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

8-18-09
Date

Department of State Use Only

Filed with the Department of State on: 8-27-2009

Effective on: 11-25-2009

Tre Hargett
Secretary of State

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PUBLICATIONS

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.

STATE OF TENNESSEE
DEPARTMENT OF HEALTH
OFFICE OF GENERAL COUNSEL

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PHIL BREDESEN
GOVERNOR

SUSAN R. COOPER, MSN, RN
COMMISSIONER

TO: TRE HARGETT
Secretary of State

FROM: MONA N. JEAN-BAPTISTE
Assistant General Counsel

DATE: 05 March 2009

SUBJECT: Comments made at the rule making hearing for Rulemaking Hearing Rules Chapeter Number 1050-02 General Rules and Regulations Governing the Practice of Osteopathy

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No members of the public attended the rule making hearing on March 4, 2009 and no comments written or oral were received prior to or during the rule making hearing.

Mona N. Jean-Baptiste, Presiding Officer
Office of General Counsel
Tennessee Department of Health

Regulatory Flexibility Addendum
Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 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) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

(a) All osteopathic physicians

(2) Identification and estimate of the number of small businesses subject to the proposed rule:

The proposed rule changes would affect all osteopaths and those training to be osteopaths. The Board currently has approximately 850 licensed osteopathic physicians and licenses approximately 20 new osteopathic physicians each year.

(3) 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:

The proposed amendments do not create any additional reporting or recordkeeping requirements and do not increase administrative costs.

(4) Statement of the probable effect on impacted small businesses and consumers:

(a) Expanding the categories in which an osteopath may obtain continuing education credit to include Category I-B will likely encourage osteopaths to participate in preceptor/mentoring programs.

(5) 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 is no less burdensome means to accomplish the purpose of this rule amendment.

(6) Comparison of the proposed rule with any federal or state counterparts:

Federal: The Board is not aware of any federal counterparts. Osteopaths are not licensed by the federal government.

State: The Board's proposed rule amendment is consistent with the qualifications for licensure in other states that regulate osteopathic medicine.

(7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting osteopathic physicians from the proposed rule amendment will negate the efficacy of the new rule.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

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

Rule 1050-2-.12, Continuing Education Requirements: The rule amendment expands the qualifying categories of continuing education to include Category I-B, which is participation in a medical program as a preceptor/mentor in subsection 1(a). The Board then wanted to limit continuing education credits received in Category I-B to fifty percent (50%) of the total due at each biennial renewal and accomplishes this by adding the language of the new subsection 1(c) and renumbering the remaining subsections (c), (d) and (e) as (d), (e) and (f) respectively.

(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;

No such authority exists.

(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;

All osteopathic physicians licensed in the State of Tennessee. It is unknown whether these entities oppose or support this amendment.

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

The Department of Health is unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

(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 is expected to have no impact on state revenue.

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

Rosemarie Otto, Administrator for the Board of Osteopathic Examination and I, Mona Nicole Jean-Baptiste, as Counsel for the Board, possess substantial knowledge and understanding of these rules.

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

I, Mona Nicole Jean-Baptiste, will explain these rules at any scheduled meetings of the committees.

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

I may be reached at Department of Health, Office of General Counsel, Plaza I, Suite 210, 220 Athens Way, Nashville, Tennessee; Ph: 615.741.1611.

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