

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: [register.information@tn.gov](mailto:register.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 09-08-10  
Rule ID(s): 4823  
File Date: 09/14/2010  
Effective Date: 12/13/2010

# 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*

<b>Agency/Board/Commission:</b>	Board of Examiners for Nursing Home Administrators
<b>Division:</b>	
<b>Contact Person:</b>	Diona E. Layden
<b>Address:</b>	Office of General Counsel 220 Athens Way, Suite 210 Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-1611
<b>Email:</b>	<a href="mailto:Diona.Layden@tn.gov">Diona.Layden@tn.gov</a>

**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)**

<b>Chapter Number</b>	<b>Chapter Title</b>
1020-01	General Rules Governing Nursing Home Administrators
<b>Rule Number</b>	<b>Rule Title</b>
1020-01-.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>)

Rule 1020-01-.02 Fees is amended by deleting subparagraph (1)(a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(a) shall read:

- |     |  |          |
|-----|--|----------|
| (a) | Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed. | \$300.00 |
|-----|--|----------|

Authority: T.C.A. §§ 63-16-103 and 63-16-104.

Rule 1020-01-.02 Fees is amended by deleting subparagraph (1)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(b) shall read:

- |     |  |          |
|-----|--|----------|
| (b) | License Renewal Fee. A biennial nonrefundable fee to be paid by all licensees. | \$210.00 |
|-----|--|----------|

Authority: T.C.A. §§ 63-16-103 and 63-16-107.

Rule 1020-01-.02 Fees is amended by deleting subparagraph (1)(e) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(e) shall read:

- |     |  |          |
|-----|--|----------|
| (e) | Duplicate License Fee. A nonrefundable fee to be paid to obtain a duplicate license. | \$ 50.00 |
|-----|--|----------|

Authority: T.C.A. §§ 63-1-106 and 63-16-103.

Rule 1020-01-.02 Fees is amended by deleting subparagraph (1)(f) in its entirety and substituting instead that following language, so that as amended, the new subparagraph (1)(f) shall read:

- |     |  |          |
|-----|--|----------|
| (f) | Certificate of Fitness Fee. A nonrefundable fee to be paid to obtain a certificate of fitness. | \$ 50.00 |
|-----|--|----------|

Authority: T.C.A. §§ 63-16-103 and 63-16-106.

Rule 1020-01-.02 Fees is amended by deleting subparagraph (1)(g) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(g) shall read:

- |     |   |          |
|-----|---|----------|
| (g) | Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination. | \$150.00 |
|-----|---|----------|

Authority: T.C.A. §§ 63-16-103 and 63-16-104.

\* 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)
Harold Walker	X				
Elayne W. Poston	X				
Norma Lester	X				
Stephen J. D'Amico				X	
Diana L. Miller	X				
Jimmy Johnston	X				
Craig Laman	X				
Kathryn Wilhoit	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Examiners for Nursing Home Administrators on 08/02/2010, 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: 06/08/10

Rulemaking Hearing(s) Conducted on: (add more dates). 08/02/10

RECEIVED  
 2010 SEP 14 PM 3:28  
 SECRETARY OF STATE  
 PUBLICATIONS

Date: August 13, 2010

Signature: [Handwritten Signature]

Name of Officer: Diona E. Layden  
 Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 8/13/10

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 1/7/2011



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

9-10-10  
 Date

**Department of State Use Only**

Filed with the Department of State on: 9/14/10

Effective on: 12/13/10

As Amended by House Bill, 10A



## **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.

### **PUBLIC HEARING COMMENTS**

#### **RULEMAKING HEARING**

#### **TENNESSEE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS**

**AUGUST 2, 2010**

The rulemaking hearing for the Tennessee Board of Examiners for Nursing Home Administrators was called to order on at 9:00, CDT, on August 2, 2010 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Diona E. Layden, Assistant General Counsel, Department of Health, was the presiding officer.

No written comments were received prior to the rulemaking hearing. No oral comments were received at the rulemaking 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.

(If applicable, insert Regulatory Flexibility Addendum here)

### **Regulatory Flexibility Analysis**

- (1) The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The language of the proposed rule amendments is clear, concise, and lacks ambiguity.
- (3) The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator. The proposed rules are not written with special consideration for flexible compliance and/or requirements. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator. The compliance and/or reporting requirements throughout the proposed rules are as “user-friendly” as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (5) The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator. The compliance and/or reporting requirements throughout the proposed rules are as consolidated and/or simplified as possible. There is sufficient notice between the rulemaking hearing and the final promulgation of these rules to allow affected persons to come into compliance with the proposed rules.
- (6) The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator. The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards, design standards, or operational standards for the affected persons.
- (7) The proposed rule amendments do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity.

## Statement of Economic Impact

### **Types of small businesses that will be directly affected by the proposed rules:**

The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator.

### **Types of small businesses that will bear the cost of the proposed rules:**

The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator.

### **Types of small businesses that will directly benefit from the proposed rules:**

The proposed rule amendments affect licensed nursing home administrators and applicants to become licensed nursing home administrators. The proposed rule amendments may affect nursing homes, if the nursing home pays the fee on behalf of the nursing home administrator.

### **Description of how small business will be adversely impacted by the proposed rules:**

The proposed rule amendments increase certain fees assessed by the Board of Examiners for Nursing Home Administrators.

### **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:**

The Board of Examiners for Nursing Home Administrators does not believe there are less burdensome alternatives to the proposed rule amendments. The proposed amendments to the fee rules are necessary so that the Board will be self-sufficient.

### **Comparison of the proposed rule with federal or state counterparts:**

**Federal:** The Board of Examiners for Nursing Home Administrators is not aware of any federal counterparts.

**State:** The Board of Examiners for Nursing Home Administrators' proposed fee increases appear to be consistent, on average, with the fees required in Kentucky, Virginia, North Carolina, Georgia, Alabama, Mississippi, Arkansas, and Missouri.

### **Impact on Local Governments**

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

The amendments to the rules are not expected to have any 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 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;

The rules promulgate amendments to the General Rules Governing Nursing Home Administrators. The rules increase fees collected by the Board as follows: (1) the Application Fee is increased from \$250.00 to \$300.00; (2) the License Renewal Fee is increased from \$180.00 to \$210.00; and (3) the Jurisprudence Examination Fee is increased from \$100.00 to \$150.00. The rules also provide a statement of explanation for the Duplicate License Fee and the Certificate of Fitness Fee.

- (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;

Authority for these amendments comes from state statutes regarding the practice of nursing home administrators, Tenn. Code Ann. § 63-16-101 et seq.

- (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;

These amendments affect licensed nursing home administrators, applicants to become nursing home administrators, and nursing homes which pay certain fees for its administrator. The Board did not receive any comments in support of the rules or in opposition to the rules.

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

None known.

- (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 fee increases will have neither a negative nor a positive fiscal impact because they are implemented to maintain the self-sufficiency of the program.

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

Diona E. Layden, Assistant General Counsel, Department of Health, possesses substantial knowledge and understanding of the rule.

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

Diona E. Layden, Assistant General Counsel, Department of Health, will explain the rule at a scheduled meeting of the committees.

- (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

Diona E. Layden, Assistant General Counsel, Department of Health, 220 Athens Way, Suite 210, Nashville Tennessee, 37243; (615) 741-1611; [Diona.Layden@tn.gov](mailto:Diona.Layden@tn.gov)

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

None.

(Rule 1020-1-.01, continued)

- (8) Board Administrative Office. The office of the administrator assigned to the Tennessee Board of Examiners for Nursing Home Administrators located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (9) Clock Hour. The measure of time for continuing education courses which equals sixty (60) minutes.
- (10) Division. The Division of Health Related Boards of the Department of Health, from which the Board receives administrative support.
- (11) Domains of Practice - Those areas of nursing home administration defined by the "Job Analysis Study" conducted by NAB.
- (12) Facility. A licensed nursing home facility.
- (13) Jurisprudence Examination. The examination on Tennessee statutes and rules for nursing homes in Tennessee.
- (14) Licensee. Any person who has been lawfully issued a license to practice nursing home administration in Tennessee.
- (15) NAB. The National Association of Boards of Examiners for Long Term Care Administrators.
- (16) NAB Examination. The nursing home administrators licensure examination developed by NAB.
- (17) Nursing Home. Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. This term shall apply equally to Christian Science Santerria and services therein.
- (18) Practice of Nursing Home Administration. The planning, organizing, directing, or controlling of the operation of a nursing home.
- (19) Preceptor. A licensee in a teaching role who has the training, knowledge, professional activity, and a facility at which he or she trains prospective nursing home administrators. The preceptor will coordinate the program of development of an A.I.T.
- (20) Reciprocity Licensure. Licensure by endorsement from another state.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-16-101, 63-16-103, 63-16-105, 63-16-107, and 63-16-108. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed December 9, 2005; effective February 22, 2006.

**1020-1-.02 FEES.**

- (1) The fees authorized by the Practice Act (T.C.A. § 63-16-101, et seq.) and other applicable statutes, to be established by the Board are as follows:
  - (a) ~~Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed.~~ ~~\$250.00~~
  - (a) Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed. \$300.00

(Rule 1020-1-.02, continued)

<del>(b)</del> <del>License Renewal Fee. A biennial non-refundable fee to be paid by all licensees.</del>	<del>\$180.00</del>
(b) <u>License Renewal Fee. A biennial nonrefundable fee to be paid by all licensees.</u>	<u>\$210.00</u>
(c) State Regulatory Fee. A non-refundable fee to be paid upon licensure and biennially for renewal of licensure.	\$ 10.00
(d) Late Renewal Fee. A non-refundable fee to be paid to reinstate an expired license.	\$200.00
<del>(e)</del> <del>Duplicate License Fee.</del>	<del>\$ 50.00</del>
(e) <u>Duplicate License Fee. A nonrefundable fee to be paid to obtain a duplicate license.</u>	<u>\$50.00</u>
<del>(f)</del> <del>Certificate of Fitness Fee.</del>	<del>\$ 50.00</del>
(f) <u>Certificate of Fitness Fee. A nonrefundable fee to be paid to obtain a certificate of fitness.</u>	<u>\$50.00</u>
<del>(g)</del> <del>Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination.</del>	<del>\$100.00</del>
(g) <u>Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination.</u>	<u>\$150.00</u>

(2) Fees may be paid in the following manner:

- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Board of Examiners for Nursing Home Administrators.
- (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-203, 4-5-204, 63-1-106, 63-1-107, 63-1-118, 63-16-103 through 63-16-105, 63-16-107, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal filed November 12, 1982; effective December 13, 1982. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Amendment filed September 25, 1995; effective December 9, 1995. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 6, 2002; effective October 20, 2002.

### 1020-1-.03 BOARD OFFICERS, RECORDS, MEETINGS, CONSULTANTS, CHANGE OF ADDRESS AND/OR NAME, AND DECLARATORY ORDERS AND SCREENING PANELS

- (1) The Board shall annually elect from its members the following officers:
  - (a) Chairman - who shall preside at all Board meetings.
  - (b) Vice Chairman - who shall preside at Board meetings in the absence of the Chairman.
  - (c) Secretary - who along with the Board Administrator shall be responsible for all administrative functions, records and correspondence of the Board.
- (2) The rules of parliamentary procedures as contained in "Robert's Rules of Order, Revised" shall govern all meetings of the Board.