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File Date: 09/24/2009  
Effective Date: 12/23/2009

# 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*

<b>Agency/Board/Commission:</b>	Tennessee Board of Physical Therapy
<b>Division:</b>	
<b>Contact Person:</b>	Diona E. Layden, Assistant General Counsel
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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. Please enter only ONE Rule Number/RuleTitle per row)**

<b>Chapter Number</b>	<b>Chapter Title</b>
Chapter 1150-01	General Rules Governing the Practice of Physical Therapy
<b>Rule Number</b>	<b>Rule Title</b>
Rule 1150-01-.02	Scope of Practice and Supervision
Rule 1150-01-.03	Necessity of Licensure
Rule 1150-01-.04	Qualifications for Licensure
Rule 1150-01-.08	Examinations
Rule 1150-01-.10	Provisional License
Rule 1150-01-.12	Continuing Competence
Rule 1150-01-.15	Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels

(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 1150-01  
General Rules Governing the Practice of Physical Therapy

Rule 1150-01-.02 Scope of Practice and Supervision is amended by deleting part (2) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new part (2) (b) 1. shall read:

1. A physical therapist may use physical therapy aides for designated tasks that do not require clinical decision making by the licensed physical therapist or clinical problem solving by the licensed physical therapist assistant. Direct supervision must apply to physical therapy aides and is interpreted to mean that services are provided under the supervision of an on-site physical therapist or physical therapist assistant licensed and practicing in Tennessee.

Authority: T.C.A. §§ 63-13-103, 63-13-304, and 63-13-311.

Rule 1150-01-.03 Necessity of Licensure is amended by adding the following language as new paragraph (5):

- (5) Licensee Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "Physical Therapist" or "Physical Therapist Assistant" as applicable, and to use the acronyms "P.T." or "P.T.A." as applicable, and to practice physical therapy, as defined in T.C.A. § 63-13-103. Any person to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 1150-1-.13 (2) (a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the licensee to disciplinary action pursuant to T.C.A. § 63-13-312 (3) and (14).

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-13-103, 63-13-301, 63-13-304, 63-13-310, and 63-13-312.

Rule 1150-01-.04 Qualifications for Licensure is amended by deleting subparagraph (1) (b), subparagraph (1) (c) and part (2) (b) 2. in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (b) and (1) (c) and part (2) (b) 2. shall read:

- (1)
  - (b) Be a graduate of a school of physical therapy accredited by CAPTE or a school for physical therapist assistants accredited by CAPTE; and
  - (c) Pass to the satisfaction of the Board an examination conducted by it to determine fitness for practice as a physical therapist or physical therapist assistant.
- (2)
  - (b)
    2. Graduate from a physical therapist or physical therapist assistant program accredited by CAPTE and approved by the Board of Physical Therapy;

Authority: T.C.A. §§ 63-13-103, 63-13-304, 63-13-306, and 63-13-307.

Rule 1150-01-.08 Examinations is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) The Board adopts as its examination for physical therapists and physical therapist assistants the National Physical Therapy Examinations endorsed by the Federation of State Boards of Physical Therapy or successor examinations.

Authority: T.C.A. §§ 63-13-304, 63-13-306, and 63-13-307.

Rule 1150-01-.10 Provisional License is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) A physical therapist assistant with a provisional license must work under the direct on-site supervision of a physical therapist or physical therapist assistant who possesses an active, unencumbered license to practice as a physical therapist or as a physical therapist assistant in Tennessee and who has completed a minimum of one (1) year of licensed clinical experience.

Authority: T.C.A. §§ 63-13-304, 63-13-307, 63-13-308, and 63-13-309.

Rule 1150-01-.12 Continuing Competence is amended by deleting part (4) (a) 9., subparagraph (9) (a) and part (9) (b) 1. in their entirety and substituting instead the following language, so that as amended, the new part (4) (a) 9., the new subparagraph (9) (a), and the new part (9) (b) 1. shall read:

- (4)
  - (a)
    9. Supervision of Physical Therapist Assistants;
- (9)
  - (a) Expired or retired for three (3) years or less – An individual whose license has expired or has been retired for three (3) years or less shall submit the appropriate application for reinstatement or reactivation, along with documentation of continuing competence (see examples in paragraph (8)), which must have been initiated and completed within two (2) years prior to submission of the application for reinstatement or reactivation.
  - (b)
    1. An individual whose license has expired or has been retired for more than three (3) years shall submit the appropriate application for reinstatement or reactivation, along with documentation of continuing competence (see examples in paragraph (8)), which must have been initiated and completed within two (2) years prior to submission of the application for reinstatement or reactivation.

Authority: T.C.A. §§ 63-13-304, 63-13-308, 63-13-309, and 63-13-311.

Rule 1150-01-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels is amended by adding the following language as new subparagraph (1) (f):

- (1)
- (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
    1. During any period of probation, suspension; or
    2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
    3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
    4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-13-304, 63-13-312, and 63-13-313.

\* 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)
Brigina T. Wilkerson	X				
J. Randy Walker, Jr.	X				
Michael L. Voight	X				
Lisa C. Fortner	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Physical Therapy on 02/15/2008, 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: 08/31/07

Notice published in the Tennessee Administrative Register on: 09/14/07

Rulemaking Hearing(s) Conducted on: (add more dates). 10/30/07

Date: January 27, 2009

Signature: Diona E. Layden

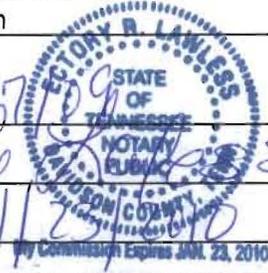
Name of Officer: Diona E. Layden  
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 1/27/09

Notary Public Signature: [Signature]

My commission expires on: 1/23/10



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.

[Signature]  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
9-21-09  
Date

**Department of State Use Only**

Filed with the Department of State on: 9/24/09

Effective on: 12/23/08

*Tre Hargett by Hand Sent, POK*  
Tre Hargett  
Secretary of State

RECEIVED  
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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.

**Regulatory Flexibility Addendum**

Pursuant to Public Chapter 464 of the 105<sup>th</sup> 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)

## Economic Impact Statement

The amendments to 1150-01-.03 and to 1150-01-.12 (9) (b) 1. are the only amendments in this filing which have economic impact to small businesses.

- (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:

Amendment to 1150-01-.03

Licensees who advertise

Amendment to 1150-01-.12 (9) (b) 1.

- (a) Physical therapists and/or physical therapist assistants whose Tennessee license is currently expired or retired; and
- (b) Continuing education course providers

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

As of December 31, 2006, Tennessee had 3,737 licensed physical therapists and 2,183 licensed physical therapist assistants who were eligible for licensure renewal.

As of August 31, 2007, Tennessee had 2,046 licensed physical therapists and 532 licensed physical therapist assistants whose licenses had expired and were now in "failed to renew status."

As of August 31, 2007, Tennessee had 930 licensed physical therapists and 315 licensed physical therapist assistants whose licenses had been retired.

- (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 which have economic impact on small businesses have minimal increased or new reporting, recordkeeping and other administrative costs that are required for compliance due to the amendment regarding use of titles in advertisements.

The proposed amendments which have economic impact on small businesses have decreased reporting, recordkeeping and other administrative costs that are required for compliance due to the amendment regarding continuing competence requirements to reinstate a retired or expired license.

The proposed amendments which have economic impact on small businesses require no new professional skills.

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

Amendment to 1150-01-.03

Licensees who advertise may have to revise advertisements which have been previously developed and/or currently running. Consumers will benefit from accurate advertisements that are not misleading.

Amendment to 1150-01-.12 (9) (b) 1.

Some individuals who are reinstating expired licenses or reactivating retired licenses may incur expenses from having to complete additional continuing education courses. Consumers will benefit by utilizing the services of physical therapists who the Board has deemed to be minimally competent.

- (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:

Amendment to 1150-01-.03

The Board does not believe there are less burdensome alternatives because the intent of T.C.A. § 63-1-145 (Public Chapter 467 of the Public Acts of 2005) requires the promulgation of this rule.

Amendment to 1150-01-.12 (9) (b) 1.

It would be less burdensome to not promulgate this rule amendment, but that would be contrary to the Board's mission to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice physical therapy within this state be qualified. Continuing competence requirements are some of the means used by the Board to achieve its mission.

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

Federal - The Board is not aware of any federal counterparts. Physical therapists and physical therapist assistants are not licensed by the federal government.

State

Amendment to 1150-01-.03

The proposed rule amendment regarding use of titles will be promulgated at all of the health related licensing boards.

Amendment to 1150-01-.12 (9) (b) 1.

There is no unanimity, much less a consensus, amongst the health related licensing boards regarding continuing education requirements to reinstate expired licenses or reactivate retired licenses.

- (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.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because other than the continuing education course providers, the impacted small businesses are the Board's licensees. If there were to be an exemption, the proposed rule amendments would have no actual effect.

## 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;

1150-01-.02	Scope of Practice and Supervision
1150-01-.04	Qualifications for Licensure
1150-01-.08	Examinations
1150-01-.10	Provisional License
1150-01-.12	Continuing Competence

The current rules listed above contain several references to “physical therapy assistants.” The new rules instead contain references to “physical therapist assistants.”

1150-01-.03      Necessity of Licensure—The current rule addresses use of titles by unlicensed individuals, but contained no specific language regarding the permissible titles a licensee may use. The new rule establishes a licensee’s right to use the appropriate title, requires a licensee’s title to appear in advertisements, and cites violation of the rule as the Board’s authority for disciplinary action.

1150-01-.12      Continuing Competence—The continuing competence activities required by the current rule to reinstate an expired or retired license is not associated with a length of time to complete the requirement. The new rule requires the continuing competence activities required to reinstate an expired or retired license to be completed within two (2) years prior to submitting the application.

1150-01-.15      Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels—The current rule does not include conditions imposed upon licensees as a disciplinary option. The new rule defines conditions as being “any action deemed appropriate by the Board to be required of a disciplined licensee,” and then lists four (4) circumstances in which such conditions may be imposed.

- (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 physical therapists and physical therapist assistants, T.C.A. §§ 63-13-101, 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;

Individuals most directly affected by these rules are all current and future licensees, but especially internationally educated applicants for licensure.

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

There are no known opinions of the attorney general or any judicial ruling which 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;

There is estimated to be no increase or decrease in revenues or expenditures because of these rule amendments.

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

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

Alison Cleaves, Deputy General Counsel

- (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

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