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Email: register.information@tn.gov

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Sequence Number: 11-23-09
Rule ID(s): 4537-4538
File Date: 11/18/2009
Effective Date: 02/16/2010

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

Agency/Board/Commission: Board of Nursing
Division:
Contact Person: E. Ashley Carter, Deputy General Counsel
Address: Plaza One, Suite 210, 220 Athens Way, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Ashley.carter@tn.gov

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/Rule Title per row)

Chapter Number	Chapter Title
1000-01	Rules and Regulations of Registered Nurses
Rule Number	Rule Title
1000-01-.12	Fees

Chapter Number	Chapter Title
1000-02	Rules and Regulations of Licensed Practical Nurses
Rule Number	Rule Title
1000-02-.12	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>)

Rulemaking Hearing Rules
for the
Board for Nursing
Division of Health Related Boards
Bureau of Health Licensure and Regulation

Chapters 1000-01 and 1000-02

Amendments

Subparagraph (e) of paragraph (1) of Rule 1000-01-.12 Fees is amended by deleting subparagraph (e) in its entirety and substituting instead the following so that the new subparagraph (e) shall read:

(e) R.N. Renewal \$90.00

Authority: T.C.A. § 63-7-114 and 63-7-207(4).

Subparagraph (e) of paragraph (1) of Rule 1000-02-.12 Fees is amended by deleting subparagraph (e) in its entirety and substituting instead the following so that the new subparagraph (e) shall read:

(e) L.P.N. Renewal \$90.00

Authority: T.C.A. § 63-7-114 and 63-7-207(4).

* 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)
Terri Bowman, LPN	X				
Barbara Brennan, RN				X	
Marilyn Dubree, RN	X				
Kathleen Harkey, Consumer	X				
Deborah Holliday, LPN	X				
Judy Messick, LPN				X	
Donna Roddy, RN				X	
Cheryl Stegbauer, RN	X				
Marian Steward, RN	X				
Betty Thompson, RN	X				
Carol Thompson, APN	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Nursing on 09/25/2009, 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: 05/13/2009

Rulemaking Hearing(s) Conducted on: (add more dates). 09/25/2009

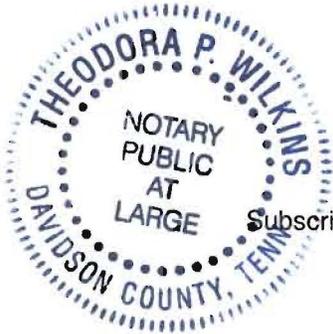
Date: 10/23/09

Signature: E. Ashley Carter

Name of Officer: E. Ashley Carter

Deputy General Counsel

Title of Officer: Tennessee Department of Health



Subscribed and sworn to before me on: 10/23/09

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011

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.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter

11-16-09
 Date

Department of State Use Only

Filed with the Department of State on: 11/18/09

Effective on: 2/16/10



Tre Hargett
Secretary of State

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PUBLICATIONS

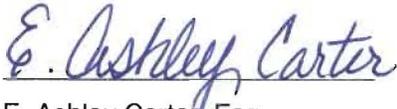
Public Hearing Comments

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.

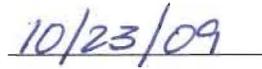
(See attached)

MEMORANDUM
RULEMAKING HEARING
TENNESSEE BOARD OF NURSING
SEPTEMBER 25, 2009

The rulemaking hearing for the Tennessee Board of Nursing was held on September 25, 2009 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. The rulemaking hearing began at 9:00 AM and ended at approximately 9:30 AM. There were no written comments received or oral comments made at the meeting.



E. Ashley Carter, Esq.
Chief Deputy General Counsel
Department of Health



Date

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 rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The proposed rules exhibit clarity, conciseness, and lack of ambiguity.
- (3) The proposed rules are not written with special consideration for the flexible compliance and/or requirements because the licensing boards have, as their primary mission, the protection of the health, safety and welfare of Tennesseans. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The compliance requirements throughout the proposed rules are as “user-friendly” as possible while still allowing the Division to achieve its mandated mission in licensing health care facilities. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow services and providers to come into compliance with the proposed rules.
- (5) Compliance requirements are not consolidated or simplified for small businesses in the proposed rules for the protection of the health, safety and welfare of Tennesseans.
- (6) The standards required in the proposed rules are very basic and do not necessitate the establishment of performance standards for small businesses.
- (7) There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation. The decreased cost for record keeping for hospitals are minimal, but electronic record keeping will be sufficient to protect the health, safety and welfare of Tennesseans.

Economic Impact Statement

Board of Nursing, Fee Increases, Chapters 1000-1 and 1000-2

- (1) **The type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.**

The rule amendments do not affect any businesses; but rather, affect individual licensees, registered nurses and licensed practical nurses.

- (2) **The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule that would bear the cost of, or indirectly benefit from the proposed rule.**

The rule amendments increase renewal fees for registered nurses and licensed practical nurses and do not contain any projected reporting, recordkeeping or other administrative costs.

- (3) **A statement of the probable effect on impacted small businesses and consumers.**

The rule amendments will not have any impact on any businesses, small or large.

- (4) **A description or any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.**

The rule amendments are not burdensome, intrusive, or costly to small businesses. Also, the rule amendments are not burdensome or intrusive to individual licensees and there is no less costly alternative to the individual licensees in order for the Board to achieve its core mission of protecting the health, safety and welfare of the public by assisting impaired professionals and educating about nurse workforce issues.

- (5) **A comparison of the proposed rule with any federal or state counterparts.**

The renewal fees contained in the rule amendments are consistent with other states' licensing renewal fees.

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

The rule amendments do not impose any requirements on small businesses; therefore, an analysis of the effect of a possible exemption for small businesses would be unnecessary.

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 rule increases the renewal fee for RNs and LPNs by \$25.00, making the renewal fee for each now \$90.00.

- (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. § 63-7-114(a) and (b) provides for the renewal of all nurse licenses with biennia renewal fee set by the board and T.C.A. § 63-7-207(4) Powers and Duties allows the board to promulgate rules necessary to govern its board.

- (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;

The persons affected by the rule are registered nurses and practical nurses licensed by the State of Tennessee Board of Nursing.

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

I am unaware of any opinion of the Attorney General or any judicial ruling which directly relates to this rule.

- (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 no positive or negative fiscal impact because the fee increases established by the rule amendments contribute to the self-sufficiency of the program.

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

Elizabeth Lund, Executive Director of the Board of Nursing and E. Ashley Carter, Deputy General Counsel, Department of Health, possess substantial knowledge and understanding of the new rule.

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

Elizabeth Lund, Executive Director of the Board of Nursing and E. Ashley Carter, Deputy General Counsel, Department of Health, will explain the new rule at a scheduled meeting of the Committee.

- (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

E. Ashley Carter, Deputy General Counsel, may be reached at the Department of Health, Office of General Counsel, Plaza One, Suite 210, 220 Athens Way, Nashville, Tennessee 37243 ((615) 741-1611). Elizabeth Lund may be reached at the Department of Health, Health Related Boards, 227 French Landing, Suite 300, Nashville, Tennessee 37243 ((615) 532-9839).

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

E. Ashley Carter, Deputy General Counsel, as well as the Executive Director, Elizabeth Lund will provide any additional information requested by the Committee relative to the new rule.