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Sequence Number: 12-23-11
 Rule ID(s): 5101
 File Date: 12/27/11
 Effective Date: 3/26/12

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 Physical Therapy
Division:
Contact Person: Marc Guilford, Assistant General Counsel
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 220 Athens Way, Suite 210
 Nashville, Tennessee
Zip: 37243
Phone: 615-741-1611
Email: Marc.Guilford@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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1150-01	General Rules Governing The Practice Of Physical Therapy
Rule Number	Rule Title
1150-01-.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>)

Rule 1150-01-.06 Fees is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

(4)	Fee Schedule	PT	PTA
(a)	Application Fee	\$100.00	\$ 90.00
(b)	Duplicate (replacement) License Fee	\$ 25.00	\$ 25.00
(c)	Endorsement/Verification Fee	\$ 25.00	\$ 25.00
(d)	License Fee	\$ 25.00	\$ 25.00
(e)	Provisional License/Application Fee	\$ 25.00	\$ 25.00
(f)	Reciprocity	\$100.00	\$100.00
(g)	Reinstatement Fee	\$100.00	\$100.00
(h)	Renewal Fee (biennial)	\$ 65.00	\$ 65.00
(i)	Late Renewal Fee	\$ 50.00	\$ 50.00
(j)	State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00

Authority: T.C.A. §§ 63-13-304, 63-13-306 through 63-13-309 and 63-13-316.

* 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, PT	X				
Lisa C. Fortner, PTA	X				
Michael L. Voight, PT				X	
Brandon Hollis, PT	X				
Minty R. Ballard	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Physical Therapy on 08/12/2011, 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: (05/25/2011)

Rulemaking Hearing(s) Conducted on: (add more dates). (08/12/2011)

Date: 9/27/11

Signature: *Marc Guilford*

Name of Officer: Marc Guilford

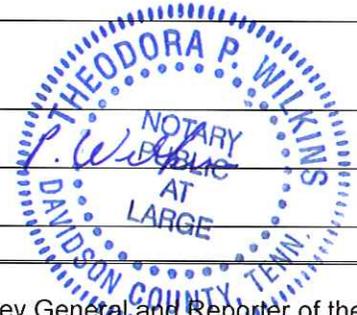
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9/27/11

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

12-19-11
Date

Department of State Use Only

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Filed with the Department of State on: 12/27/11

Effective on: 3/26/12

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.

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

TENNESSEE BOARD OF PHYSICAL THERAPY

AUGUST 12, 2011

The rulemaking hearing for the Tennessee Board of Physical Therapy was held on August 12, 2011 in the Department of Health Conference Center's Iris Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee. Marc Guilford, Assistant General Counsel, Department of Health, presided at the rulemaking hearing.

No members of the public attended the rulemaking hearing. No written or 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

Board of Physical Therapy

The Board of Physical Therapy must, pursuant to the Regulatory Flexibility Act of 2007, consider whether the proposed rule amendments will have an economic impact on small businesses (businesses with fifty (50) or fewer full-time employees). The proposed rule amendments are for the purpose of amending Rule 1150-01-.06, Fees.

As required by the Regulatory Flexibility Act of 2007, the Tennessee Department of Health conducted an analysis based on the criteria set forth in Tennessee Code Annotated Section 4-5-402 to determine the economic impact, if any, that the proposed rule amendments will have on small businesses. The outcome of the analysis is as follows:

- (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 reporting 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 the protection of the health, safety and welfare of the citizens of Tennessee. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow licensees to come into compliance with the proposed rules.
- (5) Compliance requirements do not require consolidation or simplification 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 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 increased cost for licensing and renewal is minimal and is essential to the continued operation of the Board, which is necessary to protect the health, safety and welfare of Tennesseans.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Department of Health, Board of Physical Therapy

Rulemaking hearing date: August 12, 2011

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

The impact of these rule changes on small businesses is expected to be negligible. The fee increases will affect only current and new licensees. Small businesses employing physical therapists may be affected to the extent those individuals or entities pay the application and/or renewal fees of those physical therapists.

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

The rule will only affect businesses that pay the application and/or renewal fees of physical therapists they employ. Given the modest fee increase, any impact would be minimal.

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

None known.

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

The fee increase may impact business providing the services of Physical Therapists if those businesses pay the renewal fees of their licensed Physical Therapists. As noted above, any impact would be minimal.

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

The Department of Health, Board of Physical Therapy does not believe there are less burdensome alternatives to the proposed rule amendments.

Comparison of the proposed rule with federal or state counterparts:

Federal: The Department of Health, Board of Physical Therapy is not aware of any federal counterparts.

State: The proposed rule amendments have no state counterpart.

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 rule amendments are not expected to have a projected 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;

Rule 1150-01-.06 is amended by increasing the application and renewal fees for both PTs and PTAs. The application fees are increased by \$50, to \$100 and \$90 for PTs and PTAs respectively. The renewal fees are increased by \$25, to \$65 for both PTs and PTAs.

- (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. § 63-13-304(7) authorizing the Board to assess all license and registration fees and T.C.A. § 63-13-316(b) stating the Board shall establish fees to effectuate licensees' participation in a peer assistance program as specified in § 63-13-316(a).

- (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. There were no comments received regarding these rule amendments.

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

None.

- (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;

Marc Guilford, Assistant General Counsel, Office of General Counsel, Tennessee Department of Health, 220 Athens Way, Suite 210, Nashville, Tennessee 37423, 615-741-1611

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

Marc Guilford, Assistant General Counsel

- (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

Office of General Counsel, Tennessee Department of Health, 220 Athens Way, Suite 210, Nashville, Tennessee 37423, 615-741-1611, Marc.Guilford@tn.gov

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

(Rule 1150-01-.05, continued)

- (e) When necessary, all required documents shall be translated into English and such translation and the original document must be certified as to authenticity by the issuing source. Both versions must be submitted.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-301, 63-13-304, 63-13-306, 63-13-307, and 63-13-312. **Administrative History:** Original rule filed June 6, 1978; effective July 6, 1978. Amendment filed September 29, 1981; effective December 29, 1981. Repeal and new rule filed September 30, 1987; effective November 14, 1987. Amendment filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed March 14, 2006; effective May 28, 2006.

1150-01-.06 FEES.

- (1) The fees authorized by statutes are established as follows:
 - (a) Application fee - A nonrefundable 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) Duplicate (Replacement) License - To be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.
 - (c) Endorsement/Verification - A fee paid whenever an individual requests the Board endorse him to another state or whenever a request is made to verify a license.
 - (d) Reinstatement fee - A fee to be paid to the Board to reactivate a license which has been administratively revoked due to the licensee's failure to renew.
 - (e) License fee - A nonrefundable fee to be paid prior to the issuance of the "artistically designed" license.
 - (f) Provisional License/Application fee - A nonrefundable fee to be paid by all applicants or licensees seeking a provisional license.
 - (g) Renewal fee - A fee to be paid by all license holders. This fee also applies to individuals who reactivate a retired or lapsed license.
 - (h) Late renewal fee - A fee to be paid when a licensee has failed to renew his license in a timely manner and the license has not yet been administratively revoked.
 - (i) Reciprocity - A fee to be paid in addition to the application fee.
 - (j) 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, reviewed and changed by the Board.
- (3) All fees must be submitted to the Board's administrative office by certified or personal check or money order. Checks or money orders are to be made payable to the Board of Physical Therapy.

(4) Fee Schedule:	PT	PTA
(a) Application Fee	\$ 50.00	\$ 40.00

(Rule 1150-01-.06, continued)

(b) Duplicate (Replacement) License Fee	\$ 25.00	\$ 25.00
(c) Endorsement/Verification Fee	\$ 25.00	\$ 25.00
(d) License Fee	\$ 25.00	\$ 25.00
(e) Provisional License/Application Fee	\$ 25.00	\$ 25.00
(f) Reciprocity	\$100.00	\$100.00
(g) Reinstatement Fee	\$100.00	\$100.00
(h) Renewal Fee (biennial)	\$ 40.00	\$ 40.00
(i) Late Renewal Fee	\$ 50.00	\$ 50.00
(j) State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00
<u>(4) Fee Schedule</u>	<u>PT</u>	<u>PTA</u>
<u>(a) Application Fee</u>	<u>\$100.00</u>	<u>\$ 90.00</u>
<u>(b) Duplicate (replacement) License Fee</u>	<u>\$ 25.00</u>	<u>\$ 25.00</u>
<u>(c) Endorsement/Verification Fee</u>	<u>\$ 25.00</u>	<u>\$ 25.00</u>
<u>(d) License Fee</u>	<u>\$ 25.00</u>	<u>\$ 25.00</u>
<u>(e) Provisional License/Application Fee</u>	<u>\$ 25.00</u>	<u>\$ 25.00</u>
<u>(f) Reciprocity</u>	<u>\$100.00</u>	<u>\$100.00</u>
<u>(g) Reinstatement Fee</u>	<u>\$100.00</u>	<u>\$100.00</u>
<u>(h) Renewal Fee (biennial)</u>	<u>\$ 65.00</u>	<u>\$ 65.00</u>
<u>(i) Late Renewal Fee</u>	<u>\$ 50.00</u>	<u>\$ 50.00</u>
<u>(j) State Regulatory Fee (biennial)</u>	<u>\$ 10.00</u>	<u>\$ 10.00</u>

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-13-108, 63-13-304, and 63-13-306 through 63-13-309 and 63-13-316. **Administrative History:** Original rule filed September 29, 1981; effective December 29, 1981. Amendment filed April 13, 1984; effective May 13, 1984. Repeal and new rule filed September 30, 1987; effective November 14, 1987. Amendment filed January 3, 1990; effective February 17, 1990. Amendment filed March 26, 1991; effective May 10, 1991. Repeal and new rule filed February 21, 1996; effective May 6, 1996. Amendment filed September 24, 1998; effective December 8, 1998. Withdrawal to rule 1150-01-.06 (4)(d), effective April 15, 2000, filed and effective February 28, 2000. Repeal and new rule filed March 16, 2000; effective May 30, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed January 16, 2003; effective April 1, 2003. Amendment filed April 8, 2003; effective June 22, 2003. Amendment filed May 18, 2007; effective August 1, 2007.

1150-01-.07 APPLICATION REVIEW, APPROVAL AND DENIAL.

- (1) An application packet shall be requested from the Board's administrative office.