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Sequence Number: 04-10-19
Rule ID(s): 6741
File Date: 4/10/18
Effective Date: 7/9/18

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Physical Therapy
Division:
Contact Person: Andrea Huddleston, Deputy General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Andrea.Huddleston@tn.gov

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. 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. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Chapter 1150-01

General Rules Governing the Practice of Physical Therapy Amendments

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)	\$ 55.00	\$ 45.00
(i)	Late Renewal Fee	\$ 50.00	\$ 50.00
(j)	State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00

Authority: T.C.A. §§ 63-1-103, 63-13-108, 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)
Ronald De Vera Barredo	X				
LeAnn F. Childress	X				
David Harris	X				
David Finch	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 Tennessee Board of Physical Therapy (board/commission/ other authority) on 02/09/2018(mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/17/17 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 02/09/18 (mm/dd/yy)

Date:

Signature:

Name of Officer: Andrea Huddleston

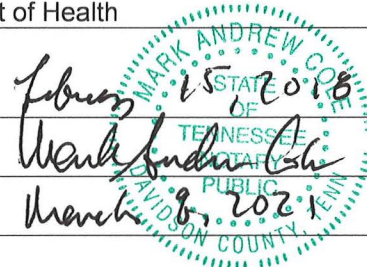
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on:

Notary Public Signature:

My commission expires on:



Agency/Board/Commission: Tennessee Board of Physical Therapy

Rule Chapter Number(s): 1150-01

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.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

4/4/2018

Date

Department of State Use Only

Filed with the Department of State on: 04-10-18

Effective on: 7-9-18


Tre Hargett
Secretary of State

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Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no comments received, either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These rule amendments do not overlap, duplicate, or conflict with other federal, state, and local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rule amendments are established with clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rule amendments do not establish any new compliance or reporting requirements.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

These rule amendments do not establish any new compliance or reporting requirements.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

These rule amendments do not establish any new compliance or reporting requirements.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rule amendments do not establish performance, operational, or design standards.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rule amendments do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Physical Therapy

Rulemaking hearing date: 02/09/2018

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

Physical Therapists and Physical Therapy Assistants, as well as those that employ them will be affected. These groups will benefit from the fee reductions and consolidations.

- 2. 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:**

These proposed rule amendments will not affect reporting or recordkeeping and do not involve administrative costs.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

The Board does not anticipate that there will be any adverse impacts to small businesses as small businesses could benefit from the fee reductions. These proposed rule amendments should not have any impact on consumers.

- 4. 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 are no less burdensome, less intrusive, or less costly methods of achieving the purpose and/or objectives of the proposed rule amendments. On the contrary, these rule amendments could have a positive impact on business.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: Many Health Related Boards in Tennessee currently operating at a surplus are reducing some licensure fees, including the Board of Respiratory Care, the Board of Medical Examiners Committee on Physician Assistants, and the Board of Examiners in Psychology.

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

These proposed rule amendments do not provide exemptions for small businesses.

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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial 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 T.C.A. § 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;

These rule amendments decrease the biennial renewal fee for Physical Therapists from \$65.00 to \$55.00 and decrease the biennial renewal fee for Occupational Therapy Assistants from \$65.00 to \$45.00.

- (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;

- (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 decrease in biennial renewal fees affects all licensees and future licensees under the Board. Currently, there are five thousand two hundred and seventy-seven (5,277) Physical Therapists and three thousand five hundred and thirteen (3,513) Physical Therapy Assistants licensed in Tennessee. There were no comments received regarding these rules.

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

These rules should not affect state or local government revenues or expenditures.

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

Andrea Huddleston, Chief Deputy General Counsel, Department of Health.

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

Andrea Huddleston, Chief Deputy General Counsel, Department of Health.

- (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, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Andrea.Huddleston@tn.gov.

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

None.

(Rule 1150-01-.05, continued)

- (4) Additional procedures for internationally educated applicants
 - (a) Passage of the required examination pursuant to rule 1150-01-.08 is a prerequisite to licensure.
 - (b) It is the applicant's responsibility to have his professional education evaluated and verified as equivalent by a credentialing agency approved by the Board, pursuant to Rule 1150-01-.04. No applicant shall be approved for licensure as a physical therapist or physical therapist assistant until the Board is satisfied that the applicant's education is substantially equivalent to the requirements of accredited educational programs.
 - (c) An applicant shall submit proof of United States or Canada citizenship or evidence of being legally entitled to live and work in the United States. Such evidence may include notarized copies of birth certificates, naturalization papers or current visa status.
 - (d) An applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of license) from each such licensing/certification agency which indicates the applicant holds or has held an active license and whether it is in good standing presently or was at the time it became inactive.
 - (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.

(Rule 1150-01-.06, continued)

- (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	\$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

(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
(c) License Fee	\$ 25.00	\$ 25.00
(d) Provisional License/Application Fee	\$ 25.00	\$ 25.00
(e) Reciprocity	\$100.00	\$100.00
(g) Reinstatement Fee	\$100.00	\$100.00

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(Rule 1150-01-.06, continued)

(h) Renewal Fee (biennial)	\$ 55.00	\$ 45.00
(i) Late Renewal Fee	\$ 50.00	\$ 50.00
(j) State Regulatory Fee (biennial)	\$ 10.00	\$10.00

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Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-13-108, 63-13-304, 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. Amendment filed December 27, 2011; effective March 26, 2012.

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

- (1) An application packet shall be requested from the Board's administrative office.
- (2) Applications for licensure will be accepted throughout the year.
- (3) Initial review of all applications to determine whether or not the application file is complete may be delegated to the Board's Unit Director. The Board will ratify licensure action taken by the Unit Director or designated Board member.
- (4) If an application for licensure is incomplete when received in the Board's administrative office, the applicant will be notified of such deficiency. The individual will not be deemed eligible to take the examination until the application is judged to be complete and accurate by the administrative office.
- (5) The Board may at its discretion delay a decision on eligibility to take the examination for any applicant for whom the Board wishes additional information.
- (6) If a completed application has been denied and ratified as such by the Board, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board's administrative office by certified mail return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, examination failure, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - (c) An applicant has a right to a contested case hearing if the licensure denial was based on subjective or discretionary criteria.
 - (d) An applicant may be granted a contested case hearing if licensure denial is based on objective, clearly defined criteria. If after review and attempted resolution by the