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Sequence Number: 08-04-18
Rule ID(s): 7222
File Date: 8/7/18
Effective Date: 11/5/18

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 Occupational Therapy
Division:
Contact Person: Lara Gill, Assistant General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Lara.Gill@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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1150-02	General Rules Governing the Practice of Occupational Therapy
Rule Number	Rule Title
1150-02-.06	Fees
1150-02-.09	Renewal of License

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 1150-02
General Rules Governing the Practice of Occupational Therapy

Amendments

Rule 1150-02-.06 Fees is being amended by deleting subparagraphs (1)(e) and (1)(i) in their entirety and by re-lettering the remaining subparagraphs accordingly, and is further amended by deleting newly re-lettered subparagraph (1)(g) in its entirety and substituting instead the following language and is further amended by deleting paragraph (4) in its entirety, including its subparagraphs, and by substituting instead the following language, so that as amended, the new subparagraph and paragraph shall read:

- (g) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications pursuant to Tenn. Code Ann. § 9-4-5117.
- | | | |
|-------------------------------------|----------|----------|
| (4) Fee Schedule: | OT | OTA |
| (a) Application | \$100.00 | \$ 75.00 |
| (b) Duplicate License | \$ 25.00 | \$ 25.00 |
| (c) Endorsement/Verification | \$ 25.00 | \$ 25.00 |
| (d) Late Renewal Fee | \$ 15.00 | \$ 15.00 |
| (e) Limited Permit | \$ 25.00 | \$ 25.00 |
| (f) Renewal (biennial) | \$ 85.00 | \$ 60.00 |
| (g) State Regulatory Fee (biennial) | \$ 10.00 | \$ 10.00 |
| (h) Inactive License (biennial) | \$ 25.00 | \$ 25.00 |

Authority: T.C.A. §§ 63-1-106, 63-1-107, 63-1-118, 63-13-202, 63-13-203, 63-13-204, 63-13-205, 63-13-212, 63-13-213, and 63-13-215.

Rule 1150-02-.09 Renewal of License is amended by deleting part (2)(a)1 in its entirety and substituting instead the following language, so that as amended, the new part shall read:

1. Payment of the current renewal fee and state mandated fees in Rule 1150-02-.06;

Authority: T.C.A. §§ 63-1-107 and 63-13-204.

* 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)
Anita M. Tisdale	X				
Marilyn D. Franklin				X	
Anita Witt Mitchell	X				
Amanda D. Newbern	X				
William A. Daniel	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Occupational Therapy (board/commission/ other authority) on 03/22/2018 (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: 09/12/17 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 03/22/18 (mm/dd/yy)

Date: July 5, 2018 7/5/18

Signature: Lara E. Gill

Name of Officer: Lara Gill

Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: July 5, 2018

Notary Public Signature: Mark Andrew Cole

My commission expires on: March 8, 2021



Agency/Board/Commission: Tennessee Board of Occupational Therapy

Rule Chapter Number(s): 1150-02

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

8/1/2018

Date

Department of State Use Only

Filed with the Department of State on: _____

8/7/18

Effective on: _____

11/5/18

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED

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SECRETARY OF STATE
REPLICATIONS

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.

The proposed 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.

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

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

The proposed rule amendments do not establish any new compliance and/or reporting requirements for small businesses.

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

The proposed rule amendments do not establish any new schedules or deadlines for compliance or reporting requirements for small businesses.

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

The proposed rule amendments do not establish any new compliance or reporting requirements for small businesses.

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

The proposed rule amendments do not establish any new performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

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

The proposed 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 Occupational Therapy

Rulemaking hearing date: March 22, 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:**

Occupational Therapists and Occupational Therapy Assistants, as well as those that employ them, such as hospitals, will be affected. These groups will benefit from the fee reductions and consolidations. Currently, there are two thousand six hundred and twenty-one (2,621) Occupational Therapists and one thousand four hundred and thirty-five (1,435) Occupational Therapy Assistants licensed by the Board of Occupational Therapy.

- 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:**

The proposed rule amendments do not create any new reporting or recordkeeping requirements and do not create any new 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 reduction and consolidations. The 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, the proposed 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 and the Board of Examiners in Psychology. Additionally, many boards do not charge separate fees for applications, registration, and certificates, including the Board of Athletic Trainers, the Board of Chiropractic Examiners, the Board of Dietician/Nutritionist Examiners, the Board of Medical Examiners, and the Board of Optometry.

- 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.**

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

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;

The amendments to Rule 1150-02-.06 will decrease the biennial renewal fee for Occupational Therapists from \$110.00 to \$85.00 and will decrease the biennial renewal fee for Occupational Therapy Assistants from \$80.00 to \$60.00.

Additionally, the amendments will consolidate the \$25.00 Application, \$40.00 Registration, and \$35.00 Certificate fees into one \$100.00 Application fee for Occupational Therapists and will consolidate the \$15.00 Application, \$30.00 Registration, and \$30.00 Certificate fees into one \$75.00 Application fee for Occupational Therapy Assistants.

The amendment to Rule 1150-02-.09 will delete part (2)(a)1 to comply with 2016 Public Chapter 763, signed by the Governor on April 4, 2016, now codified in T.C.A. § 63-1-107.

- (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. §§ 63-1-107 and 63-13-204.

- (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;

Occupational Therapists and Occupational Therapy Assistants, as well as those that employ them, such as hospitals, will be affected by these rule amendments.

- (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 significantly 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;

Lara Gill, Assistant 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;

Lara Gill, Assistant 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, Lara.Gill@tn.gov.

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

None.

GENERAL RULES GOVERNING THE PRACTICE OF
OCCUPATIONAL THERAPY

CHAPTER 1150-02

(Rule 1150-02-.05 continued)

2005. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed April 17, 2007; effective July 1, 2007. Amendment filed August 28, 2012; effective November 26, 2012.

1150-02-.06 FEES.

(1) The fees are 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) 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 certificate.
- (c) Late Renewal Fee - A nonrefundable fee to be paid when an individual fails to timely renew a certificate.
- (d) Limited Permit Fee - A nonrefundable fee to be paid when an individual requests a limited permit.

~~(e) Initial License Fee - To be paid prior to the issuance of the "artistically designed" license.~~

~~(e)(f)~~ Renewal fee - To be paid by all license holders. This fee also applies to individuals who reactivate a retired or lapsed license.

~~(f)(g)~~ Duplicate License Fee - To be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license.

~~(h) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications.~~

(g) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications pursuant to Tenn. Code Ann. § 9-4-5117.

~~(i) Registration fee - A one-time fee to be paid by initial license holders for issuance of a certificate of registration from the Division.~~

~~(h)(j)~~ Inactive License Fee - A nonrefundable fee to be paid each time a licensee requests an Inactive License, and every two (2) years thereafter until reactivation is requested.

(2) All fees shall be established, reviewed and changed by the Board, as appropriate.

(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 Occupational Therapy.

~~(4) Fee Schedule:~~ ~~OT~~ ~~OTA~~

~~(a) Application~~ ~~\$ 25.00~~ ~~\$ 15.00~~

~~(b) Duplicate License~~ ~~\$ 25.00~~ ~~\$ 25.00~~

~~(c) Endorsement/Verification~~ ~~\$ 25.00~~ ~~\$ 25.00~~

GENERAL RULES GOVERNING THE PRACTICE OF
OCCUPATIONAL THERAPY

CHAPTER 1150-02

(Rule 1150-02-.06, continued)

(d) Late Renewal Fee	\$ 15.00	\$ 15.00
(e) Limited Permit	\$ 25.00	\$ 25.00
(f) Renewal (biennial)	\$110.00	\$ 80.00
(g) Registration	\$ 40.00	\$ 30.00
(h) State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00
(i) Certificate Fee	\$ 35.00	\$ 30.00
(j) Inactive License (biennial)	\$ 25.00	\$ 25.00
(4) Fee Schedule:	OT	OTA
(a) Application	\$ 100.00	\$ 75.00
(b) Duplicate License	\$ 25.00	\$ 25.00
(c) Endorsement/Verification	\$ 25.00	\$ 25.00
(d) Late Renewal Fee	\$ 15.00	\$ 15.00
(e) Limited Permit	\$ 25.00	\$ 25.00
(f) Renewal (biennial)	\$ 85.00	\$ 60.00
(g) State Regulatory Fee (biennial)	\$ 10.00	\$ 10.00
(h) Inactive License (biennial)	\$ 25.00	\$ 25.00

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Authority: T.C.A. §§ 4-3-1011, 4-5-102, 4-5-202, 4-5-204, 9-4-5117, 63-1-106, 63-1-107, 63-1-118, 63-13-104, 63-13-108, 63-13-202, 63-13-203, 63-13-204, 63-13-205, 63-13-211, and 63-13-215.
Administrative History: Original rule filed March 15, 1996; effective May 29, 1996. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed October 11, 2005; effective December 25, 2005. Amendment filed August 18, 2006; effective November 1, 2006. Amendment filed April 17, 2007; effective July 1, 2007. References to Board of Occupational and Physical Therapy Examiners has been changed by The Secretary of State to the Applicable entity; Board of Occupational Therapy and/or Board of Physical Therapy pursuant to Public Chapter 115 of the 2007 Session of the Tennessee General Assembly.

1150-02-.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 and completed files will be ordinarily processed at the next Board meeting scheduled for the purpose of reviewing files.
- (3) Initial review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator, provided that final approval of all applications is made and ratified by the Board. In no event may an application be approved or denied without prior review by a member of the Board.

(Rule 1150-02-.07, continued)

- (9) If an applicant requests an entrance for licensure and, after Board review, wishes to change that application to a different type of entrance, a new application with supporting documents and an additional application fee must be submitted, i.e., reciprocity to examination.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-104, 63-13-108, 63-13-202, 63-13-203, 63-13-204, 63-13-207, 63-13-209, and 63-13-210. **Administrative History:** Original rule filed March 15, 1996; effective May 29, 1996. Amendment filed October 11, 2005; effective December 25, 2005.

1150-02-.08 EXAMINATIONS. In addition to having filed an application, an individual seeking licensure shall be required to pass an examination.

- (1) Occupational Therapist examination adopted by the Board:
 - (a) The examination shall be the National Board for Certification in Occupational Therapy Examination or its successor exam administered by the National Board for Certification in Occupational Therapy. The board adopts the passing scores as set by the National Board for Certification in Occupational Therapy. Examination scores are provided automatically, directly to the candidate by the National Board for Certification in Occupational Therapy.
 - (b) Examinations taken prior to January, 1985 - The applicant shall request the National Board for Certification in Occupational Therapy send a verification of certification examination results to the Board of Occupational Therapy.
 - (c) Examinations taken in January, 1985, or later - The applicant shall request that Professional Exam Service send verification of certification examination results to the Board of Occupational Therapy.
- (2) Occupational Therapy Assistant Examination adopted by the Board:
 - (a) The examination shall be the National Board for Certification in Occupational Therapy Examination or its successor examination administered by the National Board for Certification in Occupational Therapy. The board adopts the passing scores as set by the National Board for Certification in Occupational Therapy. Examination scores are provided automatically, directly to the candidate by the National Board for Certification in Occupational Therapy.
 - (b) Examinations taken prior to January, 1985 - The applicant shall request the National Board for Certification in Occupational Therapy send a verification of certification examination results to the Board of Occupational Therapy.
 - (c) Examinations taken in January, 1985, or later - The applicant shall request that Professional Exam Service send verification of certification examination results to the Board of Occupational Therapy.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-104, 63-13-108, 63-13-202, and 63-13-203. **Administrative History:** Original rule filed March 15, 1996; effective May 29, 1996. Amendments filed March 10, 2005; effective May 24, 2005. Amendment filed October 11, 2005; effective December 25, 2005.

1150-02-.09 RENEWAL OF LICENSE.

- (1) Renewal Application

(Rule 1150-02-.09, continued)

- (a) The due date for licensure renewal is the last day of the month in which a licensee's birthday falls pursuant to the Division of Health Related Boards "birthdate renewal system" contained on the renewal certificate as the expiration date.
 - (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
 - (c) A license issued pursuant to these rules is renewable by the expiration date indicated on the renewal certificate. To be eligible for renewal, an individual must submit to the Division of Health Related Boards on or before the expiration date all of the following:
 - 1. A completed and signed board renewal application form; and
 - 2. The renewal and state regulatory fees as provided in Rule 1150-02-.06; and
 - 3. A statement attesting to the completion of continued competence requirements, as provided in Rule 1150-02-.12.
 - (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-01-.10.
 - (e) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1150-02-.15.
- (2) Reinstatement of Expired License
- (a) Reinstatement of an expired license may be accomplished upon meeting the following conditions:
 - ~~1. Payment of all past due renewal and State regulatory fees;~~
 - 1. Payment of the current renewal fee and state mandated fees in Rule 1150-02-.06;
 - 2. Payment of the late renewal fee in Rule 1150-02-.06; and
 - 3. Submitting proof of completion of continued competence requirements, as provided in Rule 1150-02-.12.
 - (b) Anyone submitting a signed reinstatement application which is found to be untrue may be subjecting himself to disciplinary action as provided in Rule 1150-02-.15.
- (3) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Board member or the Board's designee.

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(Rule 1150-02-.09, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-13-104, 63-13-108, 63-13-204, 63-13-207, 63-13-209, 63-13-210, and 63-13-213. **Administrative History:** Original rule filed March 15, 1996; effective May 29, 1996. Amendment filed July 29, 2002; effective October 12, 2002. Amendment filed March 24, 2005; effective June 7, 2005. Amendment filed October 11, 2005; effective December 25, 2005.

1150-02-.10 SUPERVISION. The Board adopts, as if fully set out herein, and as it may from time to time be amended, the current "Guidelines for Supervision, Roles, and Responsibilities During the Delivery of Occupational Therapy Services" issued by the American Occupational Therapy Association but only to the extent that it agrees with the laws of the state of Tennessee or the rules of the Board. If there are conflicts with state law or rules, the state law or rules govern the matter. Information to acquire a copy may be obtained by contacting either of the following:

American Occupational Therapy Association
4720 Montgomery Lane
Bethesda, MD 20824-1220
Telephone: (301) 652-2682
T.D.D.: (800) 377-8555
Fax: (301) 652-7711
Fax On Request: (800) 701-7735 (for a specific document)
Internet: www.aota.org

Board of Occupational Therapy
665 Mainstream Drive
Nashville, TN 37243
Telephone: (615) 532-3202 ext. 25135
Telephone: (888) 310-4650 ext. 25135
Fax: (615) 532-5164
Internet: www.state.tn.us/health

- (1) Supervision of an Occupational Therapist on a limited permit must include initial and routine inspection of written evaluations, written treatment plans, patient/client notes and routine evaluation of performance. The supervision must be conducted in person, by a licensed occupational therapist and must be as follows:
 - (a) Routine supervision with direct contact every 2 weeks at the site of treatment, with interim supervision occurring by other methods such as the telephone, conferences, written communication, and E-mail.
 - (b) Supervision must include observation of the individual treatment under a limited permit in order to assure service competency in carrying out evaluation, treatment planning and treatment implementation.
 - (c) The frequency of the face to face collaboration between the person treating under a limited permit and the supervising therapist should exceed direct contact every 2 weeks if the condition of the patient/client, complexity of treatment, evaluation procedures, and proficiencies of the person practicing under the limited permit warrants it.
 - (d) Therapists must maintain documentation of each supervisory visit, and must identify a plan for continued supervision. Records must include, at a minimum, the following information:
 1. Location of visit; a method of identifying clients discussed
 2. Current plan for supervision (daily, weekly, bi-monthly)