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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:	Board of Podiatric Medical Examiners
Division:	
Contact Person:	Andrea Huddleston, Chief 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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1155-02	General Rules and Regulations Governing the Practice of Podiatry
Rule Number	Rule Title
1155-02-.12	Continuing Education

(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/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 1155-02
General Rules and Regulations Governing the Practice of Podiatry

Amendments

Rule 1155-02-.12 Continuing Education is being amended by deleting subparagraph (1)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- (b) Unless exempt under T.C.A. 63-1-402(c), all podiatrists holding a current Tennessee license shall complete a minimum of two (2) hours of continuing education biennially related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.

Authority: T.C.A. §§ 63-1-107, 63-1-402, 63-3-101, 63-3-106, 63-3-109, 63-3-115, 63-3-116, and 63-3-119.

* 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)
David J. Sables, D.P.M.	X				
Karl M. Fillauer, C.P.O.	X				
Sheila Schuler, D.P.M.	X				
Paul Somers, Jr. D.P.M.	X				
Paul C. Rivard, D.P.M.	X				
Martha Kay Oglesby	X				

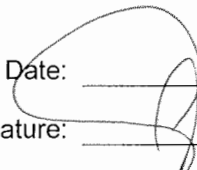
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Podiatric Medical Examiners (board/commission/ other authority) on 08/10/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/11/16 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 08/10/16 (mm/dd/yy)

Date: 1-13-17

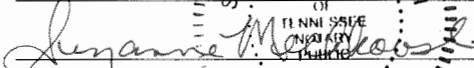
Signature: 

Name of Officer: Andrea Huddleston

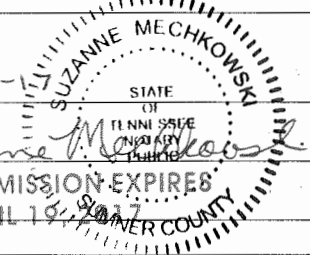
Chief Deputy General Counsel

Title of Officer: Department of Health

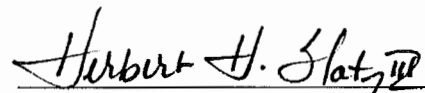
Subscribed and sworn to before me on: 1-13-17

Notary Public Signature: 

My commission expires on: APRIL 19, 2017



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
 Attorney General and Reporter
1/23/2017
 Date

Department of State Use Only

Filed with the Department of State on: 1-31-17

Effective on: 5-1-17

Tre Hargett

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.

There were no public comments, either written or oral, regarding the amendment to 1155-02-.12 (Continuing Education).

There was one written comment regarding 1155-02-.08 (Examinations) from David H. Long, DPM, urging refusal of the proposed amendment. Pursuant to this comment, that proposed rule amendment was withdrawn.

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 rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

This rule does not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

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

This rule exhibits clarity, conciseness, and lack of ambiguity.

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

This rule does not contain additional reporting requirements.

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

This rule does not contain additional reporting requirements.

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

This rule does not contain additional reporting requirements.

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

This rule does not establish performance, design, or operational standards.

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

This rule does not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Podiatric Medical Examiners

Rulemaking hearing date: 08/10/2016

- 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:**

All licensed podiatric medical doctors will be subject to the proposed rule amendment. This amendment is cost neutral as the rule does not increase the total required hours of CME. This amendment is required pursuant to T.C.A. § 63-1-402.

- 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 amendment does not create new reporting requirements or other administrative costs for compliance.

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

The proposed rule amendment should have little effect on small businesses. Although there is a new requirement that two of the CME hours biennially must be related to the prescribing of controlled substances, the total number of required CME hours remains the same.

- 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:**

The proposed rule amendment is not burdensome, intrusive, or costly and is required to comply with state law.

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

Federal: The United States Code Annotated has requirements for military physicians to complete applicable continuing medical education requirements.

State: Almost all health related boards have some type of continuing education requirements.

- 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 amendment does 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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendment 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;

The amendment to Rule 1155-02-.12 [Continuing Education] will add the requirement that podiatrists must obtain two hours of continuing education in prescribing practices to comply with Public Chapter No. 430, passed by the 108th General Assembly and signed by the Governor on May 16, 2013 and codified in T.C.A. § 63-1-402.

- (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;

Public Chapter No. 430, passed by the 108th General Assembly and signed by the Governor on May 16, 2013 and codified in T.C.A. § 63-1-402.

- (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;

All licensed podiatric medical doctors will be subject to the proposed rule amendment.

- (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;

This rule should not result in any increase or decrease in 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 1155-02-.11, continued)

- (3) A licensee whose license has been retired may re-enter active status by doing the following:
 - (a) Obtain complete and submit to the Board's administrative office a reactivation/reinstatement application.
 - (b) Pay the licensure renewal fees and state regulatory fees as provided in rule 1155-02-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Board will require payment of the late renewal fee and past due renewal fees.
 - (c) Submit verification of successful completion of continuing medical education hours, pursuant to rule 1155-02-.12.
 - (d) Retake and pass the Board's oral exam if the license has been retired for five (5) years or more.
 - (e) An individual who has a podiatry license that has been retired for at least twelve (12) months shall submit to a criminal background check and cause the results to be submitted to the Board office before the license can be reactivated.
- (4) Licensure reactivation applications shall be treated as licensure applications, and review decisions shall be governed by rule 1155-02-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, 63-3-115, and 63-3-116. **Administrative History:** Original rule filed November 10, 1998; effective January 14, 1999. Amendment filed March 23, 2007; effective June 6, 2007. Amendment filed January 20, 2012; effective April 19, 2012.

1155-02-.12 CONTINUING EDUCATION.

- (1) The Board requires each licensed podiatrist to complete fifteen (15) clock hours of continuing education each calendar year (January 1 – December 31).
 - (a) Twelve (12) hours of the fifteen (15) clock hour requirement shall be clinical, scientific, or related to patient care. If the licensee is performing ankle surgery pursuant to T.C.A. § 63-3-101 (b) (1), ten (10) of these twelve (12) hours shall pertain to the ankle surgery.
 - ~~(b) Beginning January 1, 2008, at least one (1) hour of the annual fifteen (15) hour requirement shall, every other calendar year, be a course designed specifically to address prescribing practices.~~
 - (b) Unless exempt under T.C.A. 63-1-402(c), all podiatrists holding a current Tennessee license shall complete a minimum of two (2) hours of continuing education biennially related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.
 - (c) Ten (10) hours of the fifteen (15) clock hour requirement must be completed in the traditional "lecture / classroom" format.
 - (d) Five (5) hours of the fifteen (15) clock hour requirement may be completed in any of the following multi-media formats:
 1. The Internet

(Rule 1155-02-.12, continued)

2. Closed circuit television
 3. Satellite broadcasts
 4. Correspondence courses
 5. Videotapes
 6. CD-ROM
 7. DVD
 8. Teleconferencing
 9. Videoconferencing
 10. Distance learning
- (2) Acceptable continuing education shall consist of courses provided or sponsored by the APMA, APMA approved colleges of podiatric medicine, state, regional (zone), national and affiliated specialty groups, the U.S. federal government, or other education programs approved by the Board.
- (3) Course Approval
- (a) Courses to be offered for credit toward the required continuing education hours must, unless otherwise provided pursuant to 1155-02-.12 (2), receive prior approval from the Board.
 - (b) Prior approval of a course may be obtained by submitting the following information to the Board's administrative office at least forty-five (45) days prior to the scheduled date of the course.
 1. A course description or outline;
 2. Names of all lecturers;
 3. Brief resume of all lecturers;
 4. Number of hours of educational credit requested;
 5. Date of course;
 6. How certification of attendance is to be documented.
- (4) Documentation
- (a) Each licensee must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.

(Rule 1155-02-.12, continued)

- (b) Each licensee must, within thirty (30) days of a request from the Board, provide evidence of continuing education requirements. Such evidence must be by submission of one or more of the following:
 - 1. Certificates verifying the licensee's attendance at continuing education program(s). The certificate must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, license number and social security number.
 - 2. An original letter on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, licensee's name, license number and social security number.
- (c) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Board will request a written description of the training and how it applies to the practice of podiatry. If the Board determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (5) Persons who are full-time residents in a graduate training program approved by the Council on Podiatric Medical Education and individuals who have been students of a Podiatry College during the year they obtain their Tennessee license shall be exempt from the CME requirements during that calendar year.
- (6) Continuing education credit will not be allowed for the following:
 - (a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.
 - (b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.
- (7) Revocation of license for non-compliance with continuing education:
 - (a) If the continuing education requirement is not met, a letter is issued to the last known address of the individual requiring him to show cause why his license should not be revoked for failure to comply with the continuing education requirements.
 - (b) The licensee has 30 days from the date of notification to respond to the show cause letter and prepare for any hearing on the matter
- (8) Continuing Education for Reactivation of Retired or Revoked License.
 - (a) Reactivation of Retired Licensure
 - 1. An individual whose license has been retired for less than one year will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reinstatement. Those hours will be considered replacement hours and can not be counted toward meeting the calendar year end requirement.
 - 2. Any individual requesting reactivation of a license which has been retired for one or more years must submit, along with the reactivation request, verification which indicates the attendance and completion of fifteen (15) hours of continuing

(Rule 1155-02-.12, continued)

education for each year in which the license was retired or the equivalent of this state's requirement multiplied by the number of years in retirement. The continuing education hours must have been begun and successfully completed before the date of reinstatement.

(b) Reactivation of Revoked License.

1. No person whose license has been revoked for failure to comply with continuing education may have his license reinstated without complying with all the requirements. The required clock hours of continuing education must have been begun and completed before the date of reinstatement.

(9) Violations

- (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements may be subject to disciplinary action.
- (b) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (7) (a) above may be subject to disciplinary action.

(10) Waiver of Continuing Education

- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the Board that the failure to comply was not attributed to or was beyond the physical capabilities of the person seeking the waiver.
- (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board's administrative office:
 1. A written request for a waiver which specifies what requirements are sought to be waived and a written and signed explanation of the reason for the request.
 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.
- (c) A waiver approved by the Board is effective only for the calendar year for which the waiver is sought.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-3-101, 63-1-402, 63-3-106, 63-3-109, 63-3-115, 63-3-116, and 63-3-119. **Administrative History:** Original rule filed November 10, 1998; effective January 14, 1999. Amendment filed August 23, 2001; effective November 6, 2001. Amendment filed July 22, 2002; effective October 5, 2002. Amendment filed April 26, 2006; effective July 10, 2006. Amendment filed March 23, 2007; effective June 6, 2007. Amendment filed August 9, 2007; effective October 23, 2007. Amendment filed January 20, 2012; effective April 19, 2012.

1155-02-.13 PROFESSIONAL ETHICS. Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

- (1) Conduct designed to, or likely to, deceive or harm the public.
- (2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of podiatry.