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Sequence Number: 01-29-17
 Rule ID(s): 6416
 File Date: 1-31-17
 Effective Date: 5-1-17

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 Osteopathic Examination
Division:	Council of Certified Professional Midwifery
Contact Person:	Kyonzte Hughes-Toombs
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615)741-1611
Email:	Kyonzte.Hughes-Toombs@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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1050-05	General Rules Governing Certified Professional Midwives
Rule Number	Rule Title
1050-05-.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/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 1050-05
General Rules Governing Certified Professional Midwives

Amendment

Rule 1050-05-.06 Fees is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, so that as amended, the new paragraphs shall read:

- | | | |
|-----|----------------------|----------|
| (1) | Application fee | \$500.00 |
| (2) | Biennial renewal fee | \$700.00 |

Authority: T.C.A. §§ 63-9-101, 63-29-107, 63-29-112, and 63-29-116.

* 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)
Carolyn Reisman, CPM				X	
Talitha Mills, CPM	X				
Charles B. Rush., M.D.	X				
Margaret Marie Fulmer Brasel, MS, CNM	X				
Sandra E. Tinnin, CPM	X				
Jo Nell Montgomery	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Osteopathic Examination Council of Certified Professional Midwifery (board/commission/ other authority) on 04/07/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jeffrey L. Hamre, D.O.	X				
Dr. Shannon R. Kilkelly, D.O.	X				
J. Michael Wieting, D.O.	X				
Penny Grace Judd	X				
Jan Zieren, DO	X				
Shant H. Garabedian, DO	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Osteopathic Examination Midwifery (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: 10/20/15 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 04/07/16 and 08/10/16 (mm/dd/yy)

Date: 1-17-17

Signature: Kyonzte Hughes-Toombs

Name of Officer: Kyonzte Hughes-Toombs
Deputy General Counsel

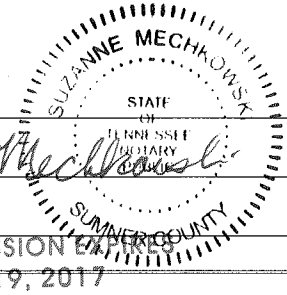
Title of Officer: Department of Health

Board of Osteopathic Examination
Council of Certified Professional Midwifery
Rule: 1050-05-.06
General Rules Governing Certified Professional Midwives
Fees

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

Notary Public Signature: Suzanne Mechkowski

My commission expires on: _____



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
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.

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.**

This rule amendment does 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.**

This rule amendment is established with clarity, conciseness, and lack of ambiguity.

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

This rule amendment does not contain compliance or reporting requirements for small businesses.

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

This rule amendment does not contain compliance or reporting requirements for small businesses.

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

This rule amendment does not contain 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.**

This rule amendment does not establish 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.**

This rule amendment does 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: Council of Certified Professional Midwifery

Rulemaking hearing date: 04/07/2016

- 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:**

These rule amendments will affect all applicants for midwifery licensure and current midwifery licensees. Applicants and current licensees will benefit from the reduction in the application fee and the biennial renewal fee.

- 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 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 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 these rule amendments.

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

Federal: None.

State: Many boards, currently operating at a surplus, are reducing some licensure fees.

- 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 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://state.tn.us/sos/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 Application Fee from one thousand dollars (\$1000.00) to five hundred dollars (\$500.00) and decrease the Biennial Renewal Fee from one thousand dollars (\$1000.00) to seven hundred dollars (\$700.00).

- (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;

None.

- (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;

These rule amendments will affect all applicants for midwifery licensure and current midwifery licensees. Applicants and current licensees will benefit from the reduction in the application fee and the biennial renewal fee.

- (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;

These rules 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;

Kyonzté Hughes-Toombs, Office of 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;

Kyonzté Hughes-Toombs, Office of 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, Kyonzte.Hughes-Toombs@tn.gov.

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

None.

(Rule 1050-5-.05, continued)

3. Loss or restriction of professional licensure/certification.
 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
 5. Failure of any professional licensure or certification examination.
- (g) An applicant shall cause to be submitted to the Council's administrative office directly from the vendor identified in the Council's certification application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, 63-9-111, 63-29-107, 63-29-114, and 63-29-116.
Administrative History: Original rule filed February 4, 2002; effective April 20, 2002. Amendment filed March 8, 2007; effective May 22, 2007.

1050-5-.06 FEES.

(1)	Application fee	\$1,000.00	Formatted: Font color: Red, Strikethrough
(1)	Application fee	\$500.00	
(2)	Biennial renewal fee	\$1,000.00	Formatted: Font color: Red, Strikethrough
(2)	Biennial renewal fee	\$700.00	
(3)	Late renewal fee	\$ 15.00	
(4)	Reinstatement fee	\$ 50.00	
(5)	Duplicate certificate fee	\$ 5.00	
(6)	Biennial state regulatory fee	\$ 10.00	
(7)	All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Council of Certified Professional Midwifery.		

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-142, 63-9-101, 63-29-101 et seq., 63-29-107, 63-29-108, 63-29-109, 63-29-112, and 63-29-116. **Administrative History:** Original rule filed August 21, 2001; effective November 4, 2001. Repeal and new rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003. Amendment filed February 15, 2006; effective May 1, 2006.

1050-5-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL. Review, approval and denial of all applications under this chapter of rules shall be governed by rule 1050-2-.05

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

1050-5-.08 RESERVED.