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Sequence Number: 02-02-17
 Rule ID(s): 6417
 File Date: 02/01/17
 Effective Date: 05/02/17

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 Medical Examiners
Division:	
Contact Person:	Andrea Huddleston, Chief Deputy General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
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Phone:	(615) 741-1611
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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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
0880-02	General Rules and Regulations Governing the Practice of Medicine
Rule Number	Rule Title
0880-02-.08	Examination
0880-02-.11	Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory Rulings, Declaratory Orders And Screening Panels

(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)

Rule Chapter 0880-02
General Rules and Regulations Governing the Practice of Medicine

Amendments

Rule 0880-02-.08 Examination is amended by deleting subparagraphs (4)(a), (4)(b), and (4)(c) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (4)(d) and only part (4)(d)4 and substituting instead the following language, and is further amended by deleting subparagraph (4)(e) in its entirety and substituting instead the following language, so that as amended, the new subparagraphs and part shall read:

- (a) FLEX and Predecessor FLEX and NBME – Ten (10) years from the date on which either the Day I or Component I or Part I of the examinations was taken.
- (b) USMLE – Ten (10) years from the date of whichever step of the examination was successfully completed first.
- (c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the ten (10) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a ten (10) year time period.
- (d) The ten (10) year limitation for the USMLE contained in subparagraph (4)(b) of this rule will not apply to applicants who:
 - 4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the ten (10) year limit.
- (e) Extensions- The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in calculating the ten (10) year limitation for the USMLE contained in subparagraph (4)(b) of this rule. Further, the ten (10) year limitation for the USMLE will not apply to applicants who:
 - 1. Are board- certified at the time of application by a board recognized by the American Board of Medical Specialties; or
 - 2. Have been and are at the time of application currently in active clinical practice in a single state or territory for a period of at least one year and have held a full, unencumbered license in that state for at least one year since successfully completing the USMLE; or
 - 3. Present satisfactory evidence of extraordinary circumstances as determined by the Board which prevented the applicant from timely completing the steps.

Authority: T.C.A. §§ 63-6-101 and 63-6-207.

Rule 0880-02-.11 Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory Rulings, Declaratory Orders And Screening Panels is amended by deleting paragraph (1), including its subparagraphs, in its entirety and by substituting instead the following language, so that as amended, the new paragraph shall read:

- (1) Officers - The Board shall elect every second year from its members the following officers who shall hold office for two years or until the election of a successor who shall fulfill the remainder of the predecessor's term:

- (a) President - who shall preside over all Board meetings.
- (b) Vice President - who shall preside over Board meetings in the absence of the President.
- (c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board.

Authority: T.C.A. §§ 63-6-101, 63-6-103, and 63-6-214.

* 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)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Dennis Higdon, M.D.	X				
Michael John Baron, M.D.	X				
Neal Beckford, M.D.				X	
Deborah Christiansen, M.D.	X				
Clinton A. Musil, Jr., M.D.	X				
Patricia Eller				X	
Barbara Outhier	X				
Julianne Cole	X				
Melanie Blake, M.D.	X				
W. Reeves Johnson, Jr. MD	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Medical Examiners (board/commission/ other authority) on 07/19/2016 (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: 05/25/16 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 07/19/16 (mm/dd/yy)

Date: 1-18-17

Signature: _____

Name of Officer: Andrea Huddleston

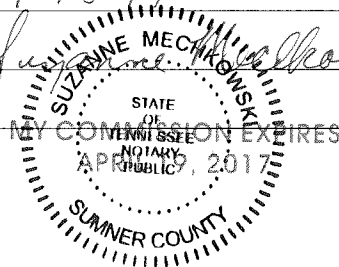
Chief Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 1-18-17

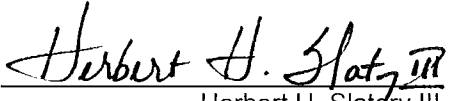
Notary Public Signature: _____

My commission expires on: _____



Tennessee Board of Medical Examiners
Rules 0880-02-.08 and 0880-02-.11
General Rules and Regulations Governing the Practice of Medicine
Examination
Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory
Rulings, Declaratory Orders And Screening Panels

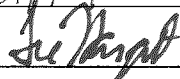
All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slatery III
Attorney General and Reporter
1/25/2017 Date

Department of State Use Only

Filed with the Department of State on: 02/01/17

Effective on: 05/02/17


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.

These rules do not overlap, duplicate, or conflict with other state or local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rules.

These rules exhibit clarity, conciseness, and lack of ambiguity.

3. The establishment of flexible compliance and/or reporting requirements for small business.

The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

The compliance requirements contained in the rules are the same for large or small businesses. The rule amendments regarding Rule 0880-02-.08 do not establish new reporting requirements.

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

The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

The amendments to Rule 0880-02-.08 do contain friendly reporting requirements.

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

The rule amendments regarding Rule 0880-02-.11 create no new requirements for licensees but merely create statutorily authorized exceptions to the statutory requirement to complete all steps of the USMLE within ten (10) years.

Compliance requirements contained in the rules are the same for large or small businesses. The rule amendments regarding Rule 0880-02-.08 do not establish new reporting requirements.

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

These rules do 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.

These rules do 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 Medical Examiners

Rulemaking hearing date: July 19, 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:

The amendment to Rule 0880-02-.08 should have a positive effect on large and small businesses as it creates statutorily authorized exceptions to the statutory requirement to complete all steps the USMLE within ten (10) years. As such, it will make it easier to recruit physicians to Tennessee.

The amendment to Rule 0880-02-.11 will affect the Board of Medical Examiners which is composed of twelve (12) members pursuant to T.C.A. § 63-6-101. The Board, as well as members of the public attending the board meetings, will benefit from the proposed rule as the rule will specify a time period in which the Board must elect officers to make the process run more efficiently and effectively during the board meetings. I recommend approval of this rule amendment.

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 rules should not result in any additional reporting, recordkeeping or other administrative costs except those associated with documenting the change in officers in rule amendment 0880-02-.11 which is a minor administrative task.

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

While the amendment to Rule 0880-02-.11 should not have any effect on small business or consumers, the amendment to Rule 0880-02-.08 should have a positive effect on large and small businesses as it creates statutorily authorized exceptions to the statutory requirement to complete all steps the USMLE within ten (10) years. As such, it will make it easier to recruit physicians to Tennessee.

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 amendments should not create any new costs.

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

Federal: None.

State: There are no federal or state counterparts for these amendments.

With respect to the amendment to Rule 0880-02-.11, many other health-related boards have specified times in which Board members must elect officers. The Board of Dispensing Opticians currently requires the Board to elect officers every two (2) years, while the Board of Dentistry, the Board of Professional Counselors, the Board of Nursing Home Examiners, the Board of Optometry, and the Board of Respiratory Care requires the election to be made annually. Additionally, the Board of Athletic Trainers requires the election of officers to be made every three (3) years. However, there are other Boards which do not specify such a time requirement anywhere in the rules.

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 amendments do not provide for exemptions for small businesses and the amendments to Rule 0880-02-.11 should not affect small businesses or consumers except to benefit them.

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;

The amendment to Rule 0880-02-.08 [Examinations] creates exceptions to the new statutory limit of ten (10) years to complete all steps of the UMSLE for those physicians who are board-certified; those who have been in active clinical practice in another state for at least one year and have held a full, unencumbered license in that state for at least one year after completion of all steps of the USMLE; and those who present evidence of extraordinary circumstances as determined by the Board which prevent the applicant from completing the steps timely.

The amendment to Rule 0880-02-.11 [Officers, Records, Meeting Requests, Certificates of Fitness, Advisory Rulings, Declaratory Orders and Screening Panels] adds language requiring the election of officers every two (2) years.

- (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. § 63-6-207 and T.C.A. § 63-6-101

- (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 amendment to Rule 0880-02-.08 will affect applicants who required in excess of ten (10) years to successfully complete all steps of the USMLE but who will now meet one of the exceptions, allowing them to now be licensed in Tennessee.

The amendment to Rule 0880-02-.11 will affect the Board of Medical Examiners which is composed of twelve (12) members pursuant to T.C.A. § 63-6-101.

- (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;

Andrea Huddleston, Chief Deputy General Counsel, Department of Health and Michael Zanolli, M.D., President, Tennessee Board of Medical Examiners.

- (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 and Michael Zanolli, M.D., President, Tennessee Board of Medical Examiners.

(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 and Tennessee Board of Medical Examiners, Division of Health Related Boards, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243, (615) 741-8402, mzanolli@mac.com.

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

None.

(Rule 0880-02-.07, continued)

- (c) Any physician holding a Locum Tenens license shall notify the Board of the location and duration of each Tennessee practice as soon as reasonably possible under the circumstances before that practice occurs.
 - (d) All Locum Tenens licenses must be renewed, inactivated or retired according to the same procedure as active unrestricted licenses.
 - (e) All Locum Tenens licenses are subject to discipline for the same causes and pursuant to the same procedures as active unrestricted licenses.
 - (f) Any person holding a Locum Tenens license who practices in this state for a period of time in any one year that the Board in its discretion feels is inordinate for the purposes of this licensure status may have his or her Locum Tenens license revoked or be required to apply for a full active license.
- (7) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§ 4-5-102 (3), 4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-201 (a), 63-6-207, 63-6-208, 63-6-209, 63-6-210, 63-6-211, 63-6-214, 63-6-214 (a), (c), (d), and (j), 63-6-216, 63-6-230, and 63-6-233. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed November 27, 1991; effective February 26, 1992. Amendment filed January 21, 1993; effective March 7, 1993. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed April 16, 1999; effective June 30, 1999. Amendment filed January 4, 2002; effective March 20, 2002. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed May 28, 2003; effective August 11, 2003. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed August 23, 2005; effective November 6, 2005. Amendments filed March 14, 2006; effective May 28, 2006.

0880-02-.08 EXAMINATION. All persons intending to apply for licensure as a physician in Tennessee must successfully complete a written examination pursuant to this rule. Such written examination must be completed prior to application for licensure. Certification of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in rule 0880-02-.03, 0880-02-.04 and 0880-02-.05.

- (1) The Board adopts FLEX, USMLE and the National Board of Medical Examiners (NBME) examination as its written licensure examinations. Successful completion of one of those examinations is a prerequisite to licensure according to the following:
 - (a) After December 31, 1999, with the exception of applicants applying pursuant to Rule 0880-02-.05, the only examination acceptable for licensure is the USMLE Steps 1, 2 and 3.
 - (b) The Board will accept any of the following examinations or combinations of examinations if completed prior to December 31, 1999:
 - 1. The NBME Parts I, II and III; or

(Rule 0880-02-.08, continued)

2. FLEX Components I and II; or
 3. Predecessor FLEX Days I, II and III; or
 4. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
NBME Part III or USMLE Step 3; or
 5. FLEX Component I plus USMLE Step 3; or
 6. NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
FLEX Component II
 7. Combinations of the Predecessor FLEX Days I, II and III are not allowed with any other examination.
- (2) Passing Scores - The Board accepts the following scores as constituting successful completion of the licensure examinations:
- (a) The Board adopts the NBME's and the USMLE's determination of the passing scores for each Part or Step of their examinations.
 - (b) The passing scores adopted by the Board for the FLEX examinations are as follows:
 1. FLEX I and II
Component I = 75
Component II = 75
 2. Predecessor FLEX Days I, II and III - A FLEX weighted average (FWA) of 75 or greater.
 - (c) If an applicant fails any step of the USMLE or FLEX examinations more than three (3) times, then the Board shall require proof of board-certification by an ABMS-recognized specialty board and proof of meeting requirements for Maintenance of Certification prior to application before consideration for licensure.
- (3) Oral examination may be required pursuant to Rule 0880-02-.07(4). The Board may also, in its discretion, require an applicant for licensure to take and pass the SPEX examination prepared by the FSMB. The circumstances under which the Board may require the SPEX examination include, but are not limited to, applicants for licensure who have been disciplined in another state; applicants who would be subject to discipline in Tennessee based on their conduct or condition; or applicants who have not engaged in the clinical practice of medicine for more than two (2) years.
- (4) Deadlines - An applicant must have achieved passing scores on the licensure examinations within the following time frames:
- (a) ~~FLEX and Predecessor FLEX and NBME - Seven (7) years from the date on which either the Day I or Component I or Part I of the examinations was taken.~~

(Rule 0880-02-.08, continued)

- ~~(a) FLEX and Predecessor FLEX and NBME – Ten (10) years from the date on which either the Day I or Component I or Part I of the examinations was taken.~~
- ~~(b) USMLE – Seven (7) years from the date of whichever step of the examination was successfully completed first.~~
- (b) USMLE – Ten (10) years from the date of whichever step of the examination was successfully completed first.
- ~~(c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the seven (7) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a seven (7) year time period.~~
- (c) The deadlines in subparagraphs (a) and (b) apply regardless of the combination of examinations utilized to apply for licensure. Provided however, if the ten (10) year limitation set forth in subsections (a) and/or (b) are not met, the applicant will be subsequently considered for licensure once it can be documented that the applicant has retaken and successfully completed the necessary steps or parts of the examination(s) in such a manner that all steps or parts of the examination(s) have been successfully completed within a ten (10) year time period.
- ~~(d) The seven (7) year limitation for the USMLE contained in subparagraph (4) (b) of this rule will not apply to applicants who~~
- (d) The ten (10) year limitation for the USMLE contained in subparagraph (4) (b) of this rule will not apply to applicants who:
 - 1. Are or have been working towards both an M.D. and Ph.D. degree in an institution or program accredited by the Association of American Medical Colleges' Liaison Committee on Medical Education and regional university accrediting body; and
 - 2. Was or is a student in good standing, who was or is enrolled in the institution or program; and
 - 3. Ph.D. studies are in a field of biological sciences tested on Step 1 of the USMLE. (These fields include but are not limited to anatomy, biochemistry, physiology, microbiology, pharmacology, pathology, genetics, neuroscience, and molecular biology. Fields explicitly not included are business, economics, ethics, history, and other fields not directly related to biological science); and
 - ~~4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the seven (7) year limit.~~
 - 4. Presents a verifiable and rational explanation for the fact that he or she was unable to meet the ten (10) year limit.
- ~~(e) Extensions – The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in~~

(Rule 0880-02-.08, continued)

~~calculating the seven (7) year limitation for the USMLE contained in subparagraph (4)(b) of this rule.~~

(e) Extensions- The amount of time an applicant has actively served while in continuous training and practice in the armed forces of the United States shall not be counted in calculating the ten (10) year limitation for the USMLE contained in subparagraph (4)(b) of this rule. Further, the ten (10) year limitation for the USMLE will not apply to applicants who:

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1. Are board- certified at the time of application by a board recognized by the American Board of Medical Specialties; or

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2. Have been and are at the time of application currently in active clinical practice in a single state or territory for a period of at least one year and have held a full, unencumbered license in that state for at least one year since successfully completing the USMLE; or

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3. Present satisfactory evidence of extraordinary circumstances as determined by the Board which prevented the applicant from timely completing the steps.

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(5) All applicants for the USMLE shall submit all application inquiries, applications, fees and all necessary admission documentation, including evidence satisfactory to the USMLE administering agency of successful completion of a one (1) year post graduate medical educational training program for applicants for Step 3 of that examination, directly to the USMLE administering agency. The Board does not distribute or process applications for the USMLE.

(6) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-207. **Administrative History:** Original rule filed February 26, 1991; effective April 12, 1991. Amendment filed January 10, 1992; effective February 24, 1992. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed March 29, 1996; effective June 12, 1996. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 4, 1998; effective November 11, 1998. Amendment filed August 25, 2000; effective November 8, 2000. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed July 27, 2006; effective October 10, 2006. Amendment filed April 17, 2007; effective July 1, 2007. Amendment filed May 27, 2008; effective August 10, 2008. Amendments filed January 26, 2015; effective April 26, 2015.

0880-02-.09 LICENSURE RENEWAL AND REINSTATEMENT.

(1) All licensees must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:

(a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-01-.10.

(b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:

(Rule 0880-02-.10, continued)

- (4) Submission of any document or set of documents required by this rule or submission of verification of the authenticity, validity and accuracy of the content of any document or set of documents required by this rule directly from the FCVS to the Board Administrative Office shall be deemed to be submission of originals of those documents or sets of documents by the issuing institution(s).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-101(a), 63-6-210, 63-6-230, and 63-6-233.
Administrative History: Original rule filed September 28, 1990; effective November 12, 1990. Repeal and new rule filed February 26, 1991; effective April 12, 1991. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed July 10, 1997; effective September 23, 1997. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed March 22, 2006; effective June 5, 2006.

0880-02-11 OFFICERS, RECORDS, MEETING REQUESTS, CERTIFICATES OF FITNESS, REPLACEMENT LICENSES, CONSULTANTS, ADVISORY RULINGS, DECLARATORY ORDERS AND SCREENING PANELS.

- ~~(1) Officers - The Board shall elect from its members the following officers:~~
- ~~(a) President - who shall preside at all Board meetings and who shall serve until the expiration of his or her term(s) on the Board. At the conclusion of the President's term(s), new elections for all officers shall be held.~~
 - ~~(b) Vice President - who shall preside at Board meetings in the absence of the President and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.~~
 - ~~(c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board and who shall serve until the expiration of his or her term(s) on the Board or until the conclusion of the then sitting President's term(s) at which time a new election shall be held.~~
 - ~~(d) Panel Chairperson - A Board member appointed by the President of the Board to preside over the Board business assigned to any panel of the Board established pursuant to T.C.A. § 63-6-103 (b).~~

- (1) Officers - The Board shall elect every second year from its members the following officers who shall hold office for two years or until the election of a successor who shall fulfill the remainder of the predecessor's term:

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- (a) President - who shall preside over all Board meetings.

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- (b) Vice President - who shall preside over Board meetings in the absence of the President.

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- (c) Secretary - who along with the Board Administrator shall be responsible for correspondence from the Board.

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- (2) Records and Requests -

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- (a) Minutes of the board meetings and all records, documents, applications, and correspondence will be maintained in the Board's Administrative Offices.

(Rule 0880-02-.11, continued)

- (b) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board's administrative office.
 - (c) Meeting Agenda Deadline - With the exception of documents relating to disciplinary actions, declaratory orders or hearing requests, any requests or inquiries requiring a Board decision or official Board action must be received in the Board's administrative office fourteen (14) days prior to a scheduled Board meeting. Requests or inquiries timely received will be retained in the administrative office and presented to the Board at the Board meeting. Requests or inquiries not timely received shall be set over to the next Board meeting.
- (3) Requests for Certificate of Fitness or Duplicate or Replacement Licenses -
- (a) Requests for certificates of fitness for licensees desiring to practice in another state must be made in writing to the Board Administrative Office.
 - (b) Requests for duplicate or replacement licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 0880-02-.02.
- (4) Consultants - The Board members or a physician designated by the Board are individually vested with authority as consultants to the Board to do the following acts:
- (a) Review and make recommendations on licensure, certification, exemption, renewal, reinstatement and reactivation applications subject to the rules governing those respective applications.
 - (b) Decide the following:
 - 1. What, if any, investigation should be instituted upon complaints received by the Division.
 - 2. Whether a licensee who is the subject of a complaint received and/or an investigation conducted by the Division is an appropriate candidate pursuant to Board established guidelines for diversion to a professional peer review organization and/or impaired professional association.
 - 3. What, if any, disciplinary actions should be instituted upon investigations conducted by the Division.
 - 4. What, if any, terms of settlements should be offered in formal disciplinary matters based upon investigations conducted by the Division. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.
 - 5. Whether and under what terms a complaint, case or disciplinary action might be settled. A proposed settlement will not become final unless it is subsequently ratified by the Board or a duly constituted panel of the Board.
- (5) The chair(s) of any acting panel(s) of the Board, are authorized to make determinations regarding stays pursuant to rule 1360-04-01-.18 and reconsiderations filed in contested case matters heard before the panel on which they serve. If the contested case is heard before the full Board, the President is authorized to make those determinations.
- (6) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 6 of Title 63 of the Tennessee

(Rule 0880-02-.11, continued)

Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. § 63-6-101 (a)(4). The procedures for obtaining and issuance of advisory rulings are as follows:

- (a) The licensee shall submit the request to the Board Administrative Office on the form contained in paragraph (6)(e) providing all the necessary information; and
- (b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's Medical Director and advisory attorney; and
- (c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and
- (d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such affect as is set forth in T.C.A. § 63-6-101 (a)(4).
- (e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Board of Medical Examiners
Request for Advisory Ruling

Date: _____
Licensee's Name: _____
Licensee's Address: _____
_____ Zip Code _____
License Number: _____

- 1. The specific question or issue for which the ruling is requested:

- 2. The facts that gave rise to the specific question or issue:

- 3. The specific statutes and/or rules which are applicable to the question or issue:

Licensee's Signature

Mail or Deliver to:
Administrator, Tennessee Board of Medical Examiners
665 Mainstream Drive
Nashville, TN 37243

(Rule 0880-02-.11, continued)

- (7) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.
- (8) Screening Panels - Any screening panel(s) established pursuant to T.C.A. § 63-6-214 (i):
- (a) Shall have concurrent authority with the Board members and any individual physician designated by the Board pursuant to paragraph (4), to do the acts enumerated in paragraph (4) (b) subject to the conditions contained therein.
1. A Screening panel(s) comprised of two (2) or more persons shall elect a chairperson prior to convening to conduct business.
 2. A screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
- (b) After completion of an investigation by the Division, may upon request of either the state, or the licensee who is the subject of an investigation but only with the agreement of the state, or upon request of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
1. Neither the Rules of Civil Procedure, the Rules of Alternative Dispute Resolution, the Rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panel(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.
 4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
 5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and

GENERAL RULES AND REGULATIONS GOVERNING
THE PRACTICE OF MEDICINE

CHAPTER 0880-02

(Rule 0880-02-.11, continued)

- (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
- (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

Authority: T.C.A. §§ 4-5-105, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-118 (b), 63-1-106 (c), 63-6-101, 63-6-101 (a), 63-6-103, 63-6-201, 63-6-207, 63-6-209, 63-6-210, 63-6-211, 63-6-212, 63-6-213, and 63-6-214. **Administrative History:** Original Rule filed February 26, 1991; effective April 12, 1991. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed April 16, 1999; effective June 30, 1999. Withdrawal to Amendment of rule 0880-02(8)(c) filed and effective November 12, 1999. Amendment filed August 30, 1999; effective November 13, 1999. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002.

0880-02-.12 LICENSURE DISCIPLINE and CIVIL PENALTIES.

- (1) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Medical Practice Act (T.C.A. §§63-6-101 et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
 - (a) Private Censure - This is a written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public censure or reprimand - This is a written action issued to a licensee for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a licensee on close scrutiny for a period of time.
 - 1. This action may be combined with any other formal disciplinary action and include conditions which must be met before probation can be lifted and/or which restrict or condition the licensee's activities during the probationary period.
 - 2. Once ordered, probation may not be lifted unless and until the licensee petitions and appears, pursuant to paragraph (2) of this rule, before the Board after the period of initial probation has run and all conditions placed on the probation have been met and the Board is satisfied that a further probationary period is not warranted.
 - (d) Licensure Suspension - This is a formal disciplinary action which suspends a licensee's right to practice medicine for a fixed period of time. It contemplates the reentry of the licensee into practice under the license previously issued.
 - 1. Once ordered, a suspension may not be lifted unless and until the licensee petitions and appears, pursuant to paragraph (2) of this rule, before the Board after the period of initial suspension has run and:
 - (i) All conditions placed on the suspension have been met; and
 - (ii) The Board is satisfied that the licensee is competent to return to practice and that no further period of suspension is warranted.