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Sequence Number: 03-20-24
 Rule ID(s): 10066
 File Date: 3/26/2024
 Effective Date: 6/24/2024

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 Communications Disorders and Sciences, Council for Licensing Hearing Instrument Specialists
Division:	
Contact Person:	Kristen Moon, Associate Counsel
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Revision Type (check all that apply):

- Amendment
 New
 Repeal
- Content based on previous emergency rule filed on _____
 Content is identical to the emergency rule

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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1370-02	General Rules Governing Hearing Instrument Specialists
Rule Number	Rule Title
1370-02-.08	Examinations

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 <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1370-02
General Rules Governing Hearing Instrument Specialists

Amendments

Rule 1370-02-.08 Examinations is amended by adding new part (1)(b)4, so that as amended, the new part shall read:

- (1) (b) 4. Practical Skills Examination proctors. The Council, or its designated representatives, shall administer the practical skills examination.
- (i) To be considered as a potential proctor, the following requirements must be met:
 - (I) hold an active and unencumbered license as a Hearing Instrument Specialist in Tennessee;
 - (II) hold current National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification;
 - (III) observe at least one (1) practical skills examination;
 - (IV) submit an application to the Council, which can be found on the Council's website; and
 - (V) must be impartial.
 - (ii) A proctor:
 - (I) is required to travel to the Council's administrative office in Nashville, Tennessee on scheduled testing dates which are set in advance;
 - (II) shall receive compensation in the amount of one hundred dollars (\$100.00);
 - (III) may be eligible for reimbursement of travel expenses, or a portion thereof; and
 - (iii) Neither this rule, nor the completion of these requirements, ensures that an applicant will be selected to serve as a proctor. This rule serves to ensure that prequalified proctors are available when necessary in order for the Council to administer the practical skills examination pursuant to T.C.A. §§ 63-17-203 and 63-17-209.
 - (iv) The Council shall take any actions necessary to insure impartiality.
 - (v) Any Council member administering the practical skills examination may elect to recuse himself from administering the practical skills examination to a particular applicant.
 - (vi) Any applicant taking the practical skills examination may, upon written request, have a Council member recused from administering such applicant's practical skills examination. The written request of the applicant should be received in the Council's Administrative Office at least ten (10) days prior to the scheduled examination.

Authority: T.C.A. §§ 63-17-105, 63-17-201, 63-17-203, 63-17-208, 63-17-209, and 63-17-210.

* 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)
Sammi Jean Wyatt	X				
Dr. Bruce L. Fetterman	X				
Amanda N. Yarnell	X				
Lordy Dell Smith	X				
Gary L. Kelly				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Communications Disorders and Sciences, Council for Licensing Hearing Instrument Specialists on 12/15/2023, 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: 10/16/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 12/15/2023

Date: January 19, 2024

Signature: 

Name of Officer: Kristen Moon

Title of Officer: Associate Counsel, Department of Health

Agency/Board/Commission: Tennessee Board of Communications Disorders and Sciences, Council for Licensing Hearing Instrument Specialists

Rule Chapter Number(s): 1370-02

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.


Jonathan Skrmetti
Attorney General and Reporter

Mar. 27, 2024
Date

Department of State Use Only

Filed with the Department of State on: 3/26/2024

Effective on: 6/24/2024

RECEIVED

Mar 26 2024, 1:32 pm

Secretary of State
Division of Publications


Tre Hargett
Secretary of State

Public Hearing Comments

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

There were no public comments received, either written or oral.

Regulatory Flexibility Addendum

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

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

These rules do 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.

These rules are clear, concise, and unambiguous.

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

These rules do not contain reporting requirements.

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

These rules do not contain reporting requirements.

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

These rules do not contain reporting requirements.

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

These rules do not contain reporting requirements.

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

These rules do not create any unnecessary barriers and do not stifle entrepreneurial activity, curb innovation, or increase costs.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

These rule amendments should not have any 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 brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Council for Hearing Instrument Specialists is amending Rule 1370-02-.08(1) (b) 4. (Practical Skills Examination Proctors) to clarify the requirements to become a skills proctor and increases the compensation for proctors.

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;

Tenn. Code Ann. §63-17-203.

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;

Hearing Instrument Specialists, practical skills examiners, hearing instrument apprentices, are the only entities regulated by this rule change. No organizations have objected to the rule change.

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.

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 change should not impact revenues or expenditures.

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

Kristen Moon, Associate Counsel, Department of Health

Identification of the appropriate agency representative or representatives who will explain the rule at scheduled meeting of the committees;

Kristen Moon, Associate Counsel, Department of Health

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

Department of Health, Office of General Counsel, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, 615-741-1611, Kristen.Moon@tn.gov

Any additional information relevant to the rule proposed for continuation that the committee requests;

None.

1370-02-.08 EXAMINATIONS

All applicants for licensure as a hearing instrument specialist or for registration as an apprentice hearing instrument specialist must successfully complete the applicable examinations described in this rule. All other requirements for licensure or registration must be successfully completed before the Council will approve an applicant to take the examinations.

(1) Hearing Instrument Specialist

(a) Written Examination - The Council adopts as its written licensure examination the International Hearing Society's examination or its successor examination.

1. The passing score shall be the overall passing score as determined by the International Hearing Society.
2. If the applicant is currently licensed or has been licensed in another state as a hearing instrument specialist, the applicant shall direct the National Board for Certification in Hearing Instruments Sciences to submit evidence that he is currently certified by the NBC-HIS or the applicant shall direct the IHS to submit documentation that he has passed the written examination as provided in this rule.

(b) Practical Skills Examination - Successful completion of the written examination requirements must be accomplished before the Council will approve an applicant to take the practical skills examination. The Council adopts as its practical skills examination the International Hearing Society's practical skills examination or its successor examination.

1. All applicants will be required to demonstrate knowledge in audiogram interpretation, advanced audiometric techniques, and earmold impression technique.
2. Applicants may be required to bring the following to the practical skills examination:
 - (i) An audiometer, audiogram forms, and proof of the audiometer's current calibration; and
 - (ii) An otoscope; and
 - (iii) All materials needed to make an ear impression; and
 - (iv) Equipment needed to program, troubleshoot, or modify hearing instruments and ear molds; and
 - (v) Red and blue ink pens; and
 - (vi) An individual to be the subject for the ear impression and the hearing test.
3. The passing score shall be the overall passing score as determined by the International Hearing Society.

4. Practical Skills Examination proctors. The Council, or its designated representatives, shall administer the practical skills examination.

(i) To be considered as a potential proctor, the following requirements must be met:

(I) hold an active and unencumbered license as a Hearing Instrument Specialist in Tennessee;

(II) hold current National Board for Certification in Hearing Instrument Sciences (NBC-HIS) certification;

(III) observe at least one (1) practical skills examination;

(IV) submit an application to the Council, which can be found on the Council's website; and

(V) must be impartial.

(ii) A proctor:

(I) is required to travel to the Council's administrative office in Nashville, Tennessee on scheduled testing dates which are set in advance;

(II) shall receive compensation in the amount of one hundred dollars (\$100.00);

(III) may be eligible for reimbursement of travel expenses, or a portion thereof; and

(iii) Neither this rule, nor the completion of these requirements, ensures that an applicant will be selected to serve as a proctor. This rule serves to ensure that prequalified proctors are available when necessary in order for the Council to administer the practical skills examination pursuant to T.C.A. §§ 63-17-203 and 63-17-209.

(iv) The Council shall take any actions necessary to insure impartiality.

(v) Any Council member administering the practical skills examination may elect to recuse himself from administering the practical skills examination to a particular applicant.

(vi) Any applicant taking the practical skills examination may, upon written request, have a Council member recused from administering such applicant's practical skills examination. The written request of the applicant should be received in the Council's Administrative Office at least ten (10) days prior to the scheduled examination.

(c) Jurisprudence Examination

1. Applicants will be tested on their knowledge of the HIS statute, Title 63, Chapter 17 of the T.C.A., and Council rules and regulations.
2. The passing score shall be a minimum of seventy percent (70%).

- (2) Fees - Initial and retake examination fees, pursuant to Rule 1370-02-.06, must be received in the Council's Administrative Office prior to the examination date, except as provided in Paragraph (4).
- (3) Examination Retakes and Limitations
 - (a) An applicant who fails any section of either the written examination or the practical skills examination will be retested in the section(s) failed only.
 - (b) On or before the thirtieth (30th) day from receipt of the examination results, the applicant shall submit to the Council his retake fee. Failure to do so will result in the application file being closed. If closed, no further Council action will take place until a new application is received pursuant to the rules governing the application process, including payment of all fees.
 - (c) After three (3) failures of the written or practical skills examinations, the applicant must wait for twelve (12) months before sitting for a retake. During these twelve (12) months, the applicant must receive training assistance from a Tennessee licensed hearing instrument specialist. Within ninety (90) days of the applicant's notification of the third (3rd) examination failure, the applicant must notify the Council in writing of the name of the Tennessee licensed hearing instrument specialist who will provide the training.
- (4) Examination Proctors
 - (a) The Council, or its designated representatives, shall administer all examinations. The Council shall take any actions necessary to insure impartiality.
 - (b) Any Council member administering the practical skills examination may elect to recuse himself from administering the practical skills examination to a particular applicant.
 - (c) Any applicant taking the practical skills examination may, upon written request, have a Council member recused from administering such applicant's practical skills examination. The written request of the applicant should be received in the Council's Administrative Office at least ten (10) days prior to the scheduled examination.
- (5) Examination Dates and Sites - The location of the examinations shall be designated in advance by the Council and such shall be held not less than annually at such time and place as specified by the Council, if there are applicants eligible for the examinations. Examinations shall be given at other times as, in the opinion of the Council, the number of applicants warrants.
- (6) Examination Results - Examination results will be mailed to the applicant. Results are not provided by telephone, facsimile, or e-mail.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-17-105, 63-17-201, 63-17-203, 63-17-208, 63-17-209, and 63-17-210.