

<b>Department of State</b> <b>Division of Publications</b> 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower Nashville, TN 37243 Phone: 615-741-2650 Email: <a href="mailto:publications.information@tn.gov">publications.information@tn.gov</a>	<b>For Department of State Use Only</b>  Sequence Number: <u>03-23-24</u> Rule ID(s): <u>10069</u> File Date: <u>3/26/2024</u> Effective Date: <u>6/24/2024</u>
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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).

<b>Agency/Board/Commission:</b>	Board of Osteopathic Examination
<b>Division:</b>	Council of Certified Professional Midwifery
<b>Contact Person:</b>	Ronda Webb-Stewart, Senior Associate Counsel Holt Whitt, Assistant Commissioner for Legislative Affairs
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**Revision Type (check all that apply):**

Amendment
  Content based on previous emergency rule filed on \_\_\_\_\_  
 New
  Content is identical to the emergency rule  
 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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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 <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1050-05  
General Rules Governing Certified Professional Midwives

Amendments

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 \$325.00
- (2) Biennial renewal fee \$450.00

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)
J. Michael Wieting, D.O.	X				
Shant H. Garabedian, D.O.	X				
Jan Zieren, D.O.	X				
Otis B. Rickman, D.O.	X				
Michael Bernui, D.O.	X				
Penny Grace Judd	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 on 11/01/2023, 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: 09/07/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 11/01/2023

Date: 3/21/2024

Signature: Ronda Webb-Stewart

Name of Officer: Ronda Webb-Stewart

Title of Officer: Senior Associate Counsel, Department of Health

Agency/Board/Commission: Board of Osteopathic Examination, Council of Certified Professional Midwifery

Rule Chapter Number(s): 1050-05

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

March 25, 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.

Oral comments:

### **Emily Goodwin, Fiscal Director, Tennessee Department of Health HRB**

Ms Goodwin presented a power point displaying the three previous years of fiscal numbers for the Midwifery Council to the Board of Osteopathic Examination. She explained the current carryover balance and the effect the current proposed fee decrease would have on the Council in the next five years. She proposed a significant change to the fee decrease. She ran live projections of various percent changes.

### **Sarah Hochstetler, Midwifery Council Member**

Ms. Hochstetler expressed that the individuals in this profession do not enter the profession to make money and there is little profit to be gained. She stated that the current fees are a huge burden to the profession. She stated that the costs to provide services is high. She confirmed that the Council did not receive the updated numbers from the fiscal director. She stated that the Council will support the wise financial decision.

The Board had already made the changes prior to the comment period. These comments are in support of the changes being made.

## 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.

### **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."

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 brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule change modifies the Midwifery licensure rules. These revisions are designed to reduce its application and renewal fees. Rule 1050-05-.06 (1) Application fee and (2) Biennial renewal fee. The Council desires to lower the application fee from \$500.00 to \$325.00 and to lower the biennial renewal fee from \$700.00 to \$450.00. The Council currently has a surplus carryover. The decrease in the biennial renewal fee will help return the Council to an appropriate monetary balance.

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. § 63-29-116 gives the BOE the authority to promulgate rules to effectuate the purposes of the practice act, with the assistance and advice of the Council. While Tenn. Code Ann. § 63-29-112 gives the authority for setting application and renewal fees to the Commissioner, with input from the Council, the Commissioner has delegated that authority to the BOE in accordance with Tenn. Code Ann. § 68-1-102(b)(2).

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;

Tennessee certified professional midwives and the Tennessee Midwives Association (TMA) will most directly be affected by this rule and urge the adoption of this rule.

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;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to this rule or its necessity.

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;

There is an estimated probable decrease in state and local government revenues. This decrease in professional license fees will lessen the carryover balance for the Council, which is sustained by these fees.

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

Ronda Webb-Stewart, Senior Associate Counsel, Department of Health

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

Ronda Webb-Stewart, Senior Associate Counsel, Department of Health  
Holt Whitt, Assistant Commissioner for Legislative Affairs

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, [Ronda.Webb-Stewart@tn.gov](mailto:Ronda.Webb-Stewart@tn.gov). 710 James Robertson Parkway, Nashville, TN 37243, (615) 741-0948, [Holt.Whitt@tn.gov](mailto:Holt.Whitt@tn.gov)

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

None.

1050-05-.06 FEES

- |     |   |                                  |
|-----|---|----------------------------------|
| (1) | Application fee   | \$ <del>500.00</del><br>\$325.00 |
| (2) | Biennial renewal fee  | \$ <del>700.00</del><br>\$450.00 |
| (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, 63-29-112, and 63-29-116.