

Rulemaking Hearing Rules

Board of Electrolysis Examiners

Chapter 0540-01  
General Rules Governing Electrology, Electrologists and Electrology Instructors

Chapter 0540-03  
General Rules Governing Schools of Electrology

Amendments

Rule 0540-01-.06, Fees, is amended by deleting subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e), (4) (f), (4) (g) and (4) (h) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e), (4) (f), (4) (g) and (4) (h) shall read:

(4)	(a)	Application	\$ 300.00	\$ 350.00
(4)	(b)	Endorsement/Verification	50.00	50.00
(4)	(c)	Examination - Practical or Re-evaluation	200.00	200.00
(4)	(d)	License - Initial	200.00	200.00
(4)	(e)	Reinstatement	200.00	200.00
(4)	(f)	License Renewal - Biennial	1,020.00	680.00
(4)	(g)	Reciprocity License fee	300.00	300.00
(4)	(h)	Replacement license	50.00	50.00

Authority: T.C.A. §§ 63-26-108, 63-26-109, 63-26-111, 63-26-112, 63-26-114, 63-26-115, 63-26-116, 63-26-117, and 63-26-120.

Rule 0540-01-.20, Advertising, is amended by inserting the following language as new paragraph (6) and renumbering the current paragraph (6) as paragraph (7):

- (6) Use of Titles - Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "electrologist" and to practice electrology, as defined in T.C.A. §§ 63-26-102. Any person licensed by the Board to whom this rule applies must use the title authorized by this rule in every "advertisement" [as that term is defined in rule 0540-01-.01(1)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the electrologist to disciplinary action pursuant to T.C.A. § 63-26-123.

Authority: T.C.A. §§ 63-1-145, 63-26-108, and 63-26-123.

Rule 0540-03-.06, Fees, is amended by deleting subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e) and (4) (f) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (a), (4) (b), (4) (c), (4) (d), (4) (e) and (4) (f) shall read:

(4)	(a)	Application	\$550.00
(4)	(b)	Endorsement Verification	50.00
(4)	(c)	Late Renewal	200.00
(4)	(d)	License (Initial)	200.00
(4)	(e)	License Renewal (annual)	680.00
(4)	(f)	Replacement License	50.00

Authority: T.C.A. §§ 63-26-108, 63-26-109, 63-26-119, and 63-26-120.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 29th day of April, 2008, and will become effective on the 13th day of July, 2008\*. (FS 04-19-08; DBID 2872-2873, 2883)

\*The GOC stayed the effective date for 0540-01-.06. The new effective date is August 16, 2008. The effective date for 0540-01-.20 remains as July 13, 2008.

#### Regulatory Flexibility Analysis

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:
  - (a) Electrologists; and
  - (b) Electrology instructors; and
  - (c) Schools of electrology; and
  - (d) Employers of electrologists and electrology instructors who pay for all governmental requirements of their employees; and
  - (e) Electrologists which advertise.
- (2) Identification and estimate of the number of small businesses subject to the proposed rule:
 

As of December 31, 2006, Tennessee had fifty-five (55) licensed electrologists who were eligible for licensure renewal. The Board licenses approximately four (4) new individuals annually.
- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:
 

The proposed amendments which have economic impact on small businesses have no increased or new reporting, recordkeeping and other administrative costs that are required for compliance.
- (4) Statement of the probable effect on impacted small businesses and consumers:
  - (a) The increase in fees will come directly out of the "bottom line" for the effected small businesses.

- (b) Electrologists which advertise may have to revise advertisements which have been previously developed and/or currently running.
- (5) 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:
  - (a) It would be less burdensome to not have a fee increase, but that would be contrary to the Board's statutory requirements regarding fiscal solvency.
  - (b) With regard to the proposed use of titles amendment, the Board does not believe there are less burdensome alternatives because the intent of T.C.A. § 63-1-145 (Public Chapter 467 of the Public Acts of 2005) requires the promulgation of this rule.
- (6) Comparison of the proposed rule with any federal or state counterparts:
  - Federal: The Board is not aware of any federal counterparts. Electrologists are not licensed by the federal government.
  - State: The Board's proposed fees are within the range of other health related licensing boards in Tennessee which have less than one hundred (100) licensees.  
  
The proposed rule amendment regarding use of titles will be promulgated at all of the health related licensing boards.
- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because the impacted small businesses are the Board's licensees. If there were to be an exemption, the proposed rule amendments would have no actual effect. T.C.A. § 4-3-1011 states it is the legislature's intent that "fees and expenditures should be equal over a two-year period for each board."