

Department of State
Division of Publications
 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 06-08-19
 Notice ID(s): 2965
 File Date: 6/6/19

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Board of Medical Examiners
Division:	
Contact Person:	Mary Katherine Bratton, Chief Deputy General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee 37243
Phone:	(615) 741-1611
Email:	Mary.Bratton@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator 710 James Robertson Parkway,
Address:	Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243
Phone:	(615) 741-6350
Email:	Tina.M.Harris2@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Metro Center
Address 2:	665 Mainstream Drive, Iris Conference Room
City:	Nashville
Zip:	37228
Hearing Date :	07/30/19
Hearing Time:	8:30 A.M. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

--

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. 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-.02	Fees
0880-02-.05	Licensure of Out-Of-State and International Applicants
0880-02-.06	Training Licenses and Licensure Exemptions

Place substance of rules and other info here. 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 0880-02
Amendments

Rule 0880-02-.02 Fees is amended by adding new subparagraphs (1)(m), (1)(n), and (1)(o), which shall read:

- (m) Limited Licensure Conversion Fee.....\$225.00
- (n) Surgical Assistant Registration Fee.....\$ 50.00
- (o) Surgical Assistant Renewal Fee.....\$ 80.00

Authority: T.C.A. §§ 63-1-106, 63-6-101, 63-6-201, 63-6-207, 63-6-210, 63-6-211, 63-6-219, and 63-6-230

Rule 0880-02-.05 Licensure of Out-of-State and International Applicants is amended by adding new paragraph (13), which shall read:

- (13) Applicants attempting to qualify for a temporary licensure under T.C.A. § 63-6-207(g) shall apply pursuant to rule 0880-02-.05(1)-(8) and pay the application fee and state regulatory fee. The board will determine on a case by case basis whether the applicant's special circumstances warrant a temporary license.
 - (a) Where the board determines to grant a temporary license the following shall apply:
 - 1. The temporary license shall be of a duration of one (1) year, unless a shorter or longer period is determined by the board, but in no event shall it be for longer than a two (2) year duration;
 - 2. The temporary license shall be nonrenewable and cannot be converted to a full and unrestricted license;
 - 3. The temporary license shall be for the accomplishment of an express purpose determined by the board to be accomplished by the licensee during the duration of the temporary license; and
 - 4. All rules and regulations of a full and unrestricted license shall apply to a temporary license, and though not disciplinary, a temporary license shall be encumbered to the extent that a temporary licensee may not serve as a supervising or collaborating physician to an advanced practice registered nurse or physician assistant.
 - (b) In order to apply for a full and unrestricted license, a temporary licensee shall:
 - 1. Submit an application pursuant to rule 0880-02-.05(1)-(8) and pay the application fee and state regulatory fee;
 - 2. Submit proof that the temporary licensee has successfully accomplished the requirements of the express purpose determined by the board for which the temporary license was issued; and
 - 3. The applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
 - (c) A temporary license is subject to the same disciplinary proceedings as a full and unrestricted license and if a temporary licensee commits a violation of the practice act or rules and regulations promulgated thereto, that violation shall be grounds to deny the temporary licensee's application for a full and unrestricted license or grounds for discipline of either the temporary license or the licensee's full and unrestricted license where such an application was approved.

Authority: T.C.A. §§ 63-6-101, 63-6-207, and 63-6-211.

Rule 0880-02-.06 Training Licenses and Licensure Exemptions is amended by adding new paragraphs (7), (8), and (9), which shall read:

- (7) Applicants attempting to qualify for limited licensure under T.C.A. § 63-6-207(h) shall apply pursuant to rule 0880-02-.03 and pay the application fee and state regulatory fee. The board will determine on a case by case basis whether the applicant's time out of practice and activities during that time warrant a limited license.
- (a) Where the board determines to grant a limited license the following shall apply:
1. The limited license shall be of a duration of one (1) year, unless a shorter or longer period is determined by the board, but in no event shall it be for longer than a two (2) year duration;
 2. The limited license shall be nonrenewable;
 3. The limited license shall be for the accomplishment of training as determined necessary by the board on a case by case basis, to be accomplished by the licensee during the duration of the limited license;
 4. The limited license shall be subject to those restrictions on practice and practice setting as determined on a case by cases basis by the board; and
 5. All other rules and regulations of a full and unrestricted license shall apply to a limited license, and though not disciplinary, a limited license shall be encumbered to the extent that a limited licensee may not serve as a supervising or collaborating physician to an advanced practice registered nurse or physician assistant.
- (b) In order to convert to a full and unrestricted license, a limited licensee shall:
1. Submit an application and disclose the circumstances surrounding any of the following occurring since or not completely disclosed on the initial application for licensure:
 - (i) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violation;
 - (ii) The denial of licensure application by any other state or the discipline of licensure in any state;
 - (iii) Loss or restriction of hospital privileges;
 - (iv) Any other civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving medical malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under any country's or state's statutory, common, or case law; and
 - (v) Failure of any medical licensure examination;
 2. The applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check;
 3. Pay the Limited Licensure Conversion Fee;
 4. Provide proof that he or she has successfully completed the training determined necessary by the board for which the limited license was granted.
- (c) A limited license is subject to the same disciplinary proceedings as a full and unrestricted license and if a limited licensee commits a violation of the practice act or rules and regulations

promulgated thereto, that violation shall be grounds to deny the limited licensee's conversion application or grounds for discipline of either the limited license or the licensee's full and unrestricted license where an upgrade application was approved.

- (8) Applicants attempting to qualify for an administrative license under T.C.A. § 63-6-207(h) shall apply pursuant to rule 0880-02-.03 and pay the application fee and state regulatory fee. The board will determine on a case by case basis whether the applicant's circumstances warrant an administrative license.
- (a) Where the board determines to grant an administrative license the following shall apply:
1. An administrative licensee shall only practice administrative medicine and is not licensed to practice clinical medicine;
 2. All rules and regulations of a full and unrestricted license shall apply to an administrative license;
 3. The administrative license may be renewed pursuant to rule 0880-02-.09;
 4. The due date for the administrative license renewal is the expiration date, which shall be the last day of the month in which the administrative licensee's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-01-.10.
- (b) If an administrative licensee wishes to pursue a full and unrestricted license to practice medicine, that licensee shall submit a new application pursuant to rule 0880-02-.03. There shall be no process by which an administrative license can be converted to a full and unrestricted license.
- (c) The board shall not issue an administrative license or convert to an administrative license as a form of discipline.
- (d) Administrative medicine means administration or management utilizing the medical and clinical knowledge, skill, and judgement of a licensed physician which may affect the health and safety of the public but does not involve direct patient care. Administrative medicine does not include the clinical practice of medicine including examining, diagnosing, caring for, or treating patients, prescribing medications, or supervising healthcare practitioners in the provision of direct patient care, or delegating medical acts or prescriptive authority to others.
- (e) An administrative license is subject to the same disciplinary proceedings as a full and unrestricted license and if an administrative licensee commits a violation of the practice act or rules and regulations promulgated thereto, that violation shall be grounds for discipline of the administrative license or grounds to deny an application for a full and unrestricted license or discipline a full and unrestricted license where such an application was approved.
- (9) In order to employ a physician who does not possess a full and unrestricted license to practice medicine in Tennessee at St. Jude Children's Research Hospital, it is the responsibility of St. Jude Children's Research Hospital to submit an application on behalf of a prospective employee. Such applications shall be made pursuant to rule 0880-02-.03 or 0880-02-.04, and require payment of the application fee and state regulatory fee, except that the St. Jude application shall be used, and an applicant who has met all other qualifications for licensure is not required to have completed a residency or training program required by T.C.A. §§ 63-6-207(a)(1)(C) or (a)(2)(F).
- (a) Where the Board determines to grant a St. Jude license the following shall apply:
1. A St. Jude licensee shall only practice within the duties and responsibilities as an employee of St. Jude Children's Research Hospital;
 2. All rules and regulations of a full and unrestricted license shall apply to a St. Jude license, including:
 - (i) The St. Jude licensee is subject to the same continuing education requirements

as a full and unencumbered license and St. Jude licensees must comply with the continuing education requirements of rule 0880-02-.19; and

- (ii) The St. Jude licensee is subject to licensure discipline and civil penalties pursuant to rule 0880-02-.12;
 - (iii) The St. Jude license may be renewed pursuant to rule 0880-02-.09; and
 - (iv) The due date for the St. Jude license renewal is the expiration date, which shall be the last day of the month in which the administrative licensee's birthday falls pursuant to the Division of Health Related Boards 'biennial birthdate renewal system" contained in rule 1200-10-01-.10.
- (b) If the holder of a St. Jude license wishes to pursue a full and unrestricted license to practice medicine, that licensee shall submit a new application pursuant to rule 0880-02-.03 or 0880-02-.05. There shall be no process by which a St. Jude license can be converted to a full and unrestricted license.

Authority: T.C.A. §§ 63-6-101, 63-6-201, 63-6-207, 63-6-208, 63-6-209, 63-6-210, 63-6-211, and 63-6-214.

Chapter 0880-02
New Rule 0880-02-.25
Surgical Assistant Registration

Table of Contents

0880-02-.01	Definitions
0880-02-.02	Fees
0880-02-.03	Licensure Process-U.S. and Canada Medical School Graduates
0880-02-.04	Licensure Process-International Medical School Graduates
0880-02-.05	Licensure of Out-Of-State and International Applicants
0880-02-.06	Training Licenses and Licensure Exemptions
0880-02-.07	Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure
0880-02-.08	Examination
0880-02-.09	Licensure Renewal and Reinstatement
0880-02-.10	Licensure Retirement/Inactivation and Reactivation
0880-02-.11	Officers, Records, Meeting Requests, Certificates of Fitness, Replacement Licenses, Consultants, Advisory Rulings, Declaratory Orders And Screening Panels
0880-02-.12	Licensure Discipline and Civil Penalties
0880-02-.13	Advertising
0880-02-.14	Specially Regulated Areas and Aspects of Medical Practice
0880-02-.15	Medical Records
0880-02-.16	Telemedicine Licensure and the Practice of Telemedicine
0880-02-.17	Consumer Right-To-Know Requirements
0880-02-.18	Supervision of Physician Assistants
0880-02-.19	Continuing Medical Education
0880-02-.20	Medical Professional Corporations and Medical Professional Limited Liability Companies
0880-02-.21	Office Based Surgery
0880-02-.22	Free Health Clinic, Inactive Pro Bono and Volunteer Practice Requirements
0880-02-.23	Tamper-Resistant Prescriptions
0880-02-.24	Medical Spa Registration
0880-02-.25	Surgical Assistant Registration
0880-02-.25	Surgical Assistant Registration.

- (1) To use or assume the title "registered surgical assistant" in Tennessee, a person must first possess a lawfully issued registration from the board. The procedure to obtain a registration is as follows:
- (a) A surgical assistant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board

Administrative Office.

- (b) An applicant shall submit satisfactory evidence that the applicant:
 - 1. Holds and maintains a current credential as a surgical assistant or surgical first assistant issued by:
 - (i) The National Board of Surgical Technology and Surgical Assisting (NBSTSA);
 - (ii) The National Surgical Assistant Association (NSAA); or
 - (iii) The National Commission for Certification (NCCSA); or
 - 2. Has successfully completed a surgical assistant training program during the applicant's service as a member of any branch of the armed forces of the United States; or
 - 3. Has practiced as a surgical assistant within the six (6) months prior to July 1, 2017, provided the applicant registers with the board by December 31, 2019.
 - (c) An applicant shall submit the Surgical Assistant Registration Fee and the state regulatory fee as provided in rule 0880-02-.02(1).
- (2) Review and decisions on registration applications shall be governed as follows:
- (a) The Board's administrative staff shall determine when a registration file is complete.
 - (b) If an application is incomplete when received by the Board Administrative Office, the applicant shall be notified of the information required. The applicant shall cause the requested information to be received by the Board Administrative Office on or before the ninetieth (90th) day after the initial letter notifying the applicant of the required information is sent. If requested information is not timely received, the application file shall be closed and the applicant notified that the Board will not consider registration until a new application is received.
 - (c) If a completed application is denied, conditioned, or restricted by the board, a notification of the denial shall be sent by the Board Administrative Office by certified mail, return receipt requested, which shall contain the specific authority for the denial. The applicant is not entitled to a contested case hearing. If an applicant believes that the denial was in error, the applicant may request, in writing within 30 days of receipt of the denial, to appear before the board for an interview.
- (3) All licensees must renew their registration to be able to legally continue in practice. Registration renewal is governed by the following:
- (a) The due date for registration renewal is its expiration date, which is the last day of the month in which a registrant'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 - Registrants may accomplish renewal by one of the following methods:
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary Surgical Assistant Renewal Fee via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - Registrants who have not renewed their authorization online via the Internet will have a renewal application form mailed to them at the last address provided by them to the Board prior to the expiration date of their current registration. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a registrant must submit to the Division of Health Related Boards on or before the registrant's expiration date the following:

- (i) A completed and signed renewal application form.
 - (ii) The Surgical Assistant Renewal Fee and state regulatory fees as provided in Rule 0880-02-.02.
- (c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 0880-02-.02.
- (d) Any individual who fails to comply with the registration renewal rules and/or notifications sent to them concerning failure to timely renew shall have their registration processed pursuant to rule 1200-10-01-.10.
- (e) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
- (f) Any registrant who receives notice of failure to timely renew pursuant to T.C.A. § 63-6-210 and rule 1200-10-01-.10, and who, on or before the last day of the month following the month in which the registration expires, executes and files in the Board's administrative office an affidavit of retirement pursuant to Rule 0880-02-.10 may have their registration retired effective on their registration expiration date.
- (4) Registrants who have failed to renew timely may be reinstated upon meeting the following conditions:
- (a) Submitting a complete renewal/reinstatement application;
 - (b) Submitting payment of the Surgical Assistant Registration Renewal Fee and late renewal fee provided in rule 0880-02-.02;
 - (c) Submit, along with the application, documentation of successful completion of fifteen (15) hours of continuing education in compliance with rule 0880-02-.23(8) for each period of twelve (12) months of less preceding the renewal/reinstatement request, up to sixty (60) hours; and
 - (d) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the good cause for failure to renew. An applicant for reinstatement who has been out of clinical practice for more than two years may be subject to any re-entry policy or guidelines the Board is using at the time of the reinstatement request.
- (5) If derogatory information or communication is received during the renewal process, if requested by the Board or its duly authorized representative, the renewal/reinstatement applicant must appear before the Board, a duly constituted panel of the Board, a Board member, or a screening panel for an interview, and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.
- (6) Renewal issuance and reinstatement decisions pursuant to this rule may be made administratively subject to review by the Board, any Board member, or the Board Designee.
- (7) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Medical Practice Act at T.C.A. § 63-6-214, or these rules, discipline and civil penalties shall be governed by Rule 0880-02-.12.
- (8) All licensees must complete thirty (30) hours of continuing education during the twenty-four (24) months that precede licensure renewal.
- (a) Proof of Compliance-
 - 1. Documentation verifying the licensee's completion of the continuing education hours must consist of either:
 - (i) Original certificates or original letters from course providers verifying the licensee's attendance and completion of the course; and

- (ii) Verification of the continuing education hours from NBSTSA, NSAA, or NCCSA; or
 - (iii) Successful completion of the National Commission for the Certification of Surgical Assistants examination. Licensees must sit for and pass this examination prior to the expiration of the twenty-four (24) months that precede their licensure renewal. Passage of this examination prior to the license's expiration date will satisfy the thirty (30) hours of required continuing education for the preceding licensure cycle.
- 2. All licensees must retain independent documentation of completion of all continuing education and compliance with the provisions of these rules for a period of four (4) years from the end of the calendar year in which the continuing education was acquired.
- 3. This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process.
- (b) Violations - Any licensee who fails to obtain the required continuing education hours or otherwise comply with the provisions of these rules will be subject to disciplinary action. Continuing education hours obtained as a result of compliance with the terms of Board Orders in any disciplinary action or obtained pursuant to licensure or renewal conditions mandated by the Board shall not be credited toward the continuing education required to be obtained in any calendar year.
- (d) Waiver - The Board may waive the requirements of these rules in cases where illness, disability, or other undue hardship beyond the control of the licensee prevents a licensee from complying. Requests for waivers must be sent in writing to the Board prior to the expiration of the calendar year in which the continuing education is due.

Authority: T.C.A. § 63-6-219.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 6/6/19

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton
Chief Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: _____

Notary Public Signature: Suzanne Mechkowski

My commission expires on: _____



My Commission Expires
January 26, 2021

Department of State Use Only

Filed with the Department of State on: 6/6/19

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2019 JUN -6 PM 3:28
SECRETARY OF STATE
FILING DIVISION