

Rulemaking Hearing Rules

Board of Electrolysis Examiners

Chapter 0540-01

General Rules Governing Electrology, Electrologists, and Electrology Instructors

Amendments

Rule 0540-01-.04, Qualifications for Licensure, is amended by deleting paragraphs (3) and (5) but not their subparagraphs and substituting instead the following language, so that as amended, the new paragraphs (3) and (5) but not their subparagraphs shall read:

- (3) To qualify for licensure as an electrologist by reciprocity (licensed in another state), the applicant must:
- (5) To qualify for licensure, internationally educated applicants, in addition to meeting the requirements specified in either Rule 0540-01-.04 (l), (3), (4) or (5), must:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-111, and 63-26-117.

Rule 0540-01-.04, Qualifications for Licensure, is amended by inserting the following language as new paragraph (2) and renumbering the existing paragraphs (2) through (6) as paragraphs (3) through (7):

- (2) To qualify for licensure as an electrologist without examination and without licensure in another state, the applicant must:
 - (a) Meet the requirements of Rule 0540-01-.04 (1) (a) and (b) and Rule 0540-01-.04 (1) (c) 1.;
 - (b) Provide documentation of having practiced electrology five (5) years or more in a state which does not require a license for such practice by submitting photocopies of paychecks, paycheck stubs, Internal Revenue Service (IRS) Forms W-2 or 1099-Misc., Schedules C or C-EZ for IRS Form 1040, or Schedule K-1 for IRS Form 1065 to verify proof of income (or loss) from the practice of electrology; and
 - (c) Cause documentation to be submitted from the certifying agency directly to the Board administrative office that he/she is a Certified Professional Electrologist (CPE) certified by the American Electrology Association, or is a Clinical Certified Electrologist (CCE) or Clinical Medical Electrologist (CME) certified by the Society of Clinical and Medical Electrologists.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-111, and 63-26-115.

Rule 0540-01-.05, Procedures for Licensure, is amended by deleting paragraphs (4) and (7) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (9) but not its subparagraphs and substituting instead the following language, and is further amended by deleting paragraph (11) in its entirety and substituting instead the following language, so that as amended, the new paragraphs (4) and (7), the new paragraph (9) but not its subparagraphs, and the new paragraph (11) shall read:

- (4) An applicant shall pay, at the time of application, the non-refundable application, examination fees and state regulatory fee as provided in Rule 0540-01-.06. Reciprocity (licensed in another

state) applicants and applicants for licensure without examination and without licensure in another state shall also pay at the time of application the reciprocity fee as provided in Rule 0540-01-.06.

- (7) Except for limited licensure applicants and applicants for licensure without examination and without licensure in another state, applicants shall cause to be submitted directly to the Board's administrative office from an accredited college or university an official transcript verifying that the general education requirements pursuant to Rule 0540-01-.04 (l) (c) 3. have been met.
- (9) Except for limited licensure applicants, electrology instructor applicants, and applicants for licensure without examination and without licensure in another state, applicants shall cause to be submitted directly from the school of electrology an original letter on the school's letterhead and signed by the program director verifying the applicant has successfully completed the school's course of study. To be acceptable, the school's course of study and curriculum must comply with or be equivalent to Tennessee's electrology school requirements pursuant to T.C.A. § 63-26-111 (4) (A) and (B). If the school no longer exists, the following documentation will be reviewed by the board for acceptability.
- (11) Except for electrology instructor applicants and applicants for licensure without examination and without licensure in another state, applicants shall request that his/her written examination scores, pursuant to Rule 0540-l-.08, be submitted directly to the Board's administrative office from the American Electrology Association or the Society of Clinical and Medical Electrologists.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-111, 63-26-112, 63-26-115, and 63-26-119.

Rule 0540-01-.06, Fees, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Reciprocity License fee - A non-refundable fee to be paid at the time an application for licensure is filed by reciprocity (licensed in another state) applicants and by applicants for licensure without examination and without licensure in another state. The fee is in addition to the application fee.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-109, 63-26-115, and 63-26-117.

Rule 0540-01-.08, Examinations, is amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs shall read:

- (1) Electrologist Examination. An individual seeking licensure as an electrologist, either by examination, limited licensure, or reciprocity (licensed in another state) shall be required to pass each of the following examinations prior to licensure:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, 63-26-115, and 63-26-117.

Rule 0540-01-.12, Continuing Education, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, and is further amended by inserting the following language as new paragraph (7) and renumbering the existing paragraph (7) as paragraph (8), so that as amended, the new paragraphs (5) and (7) shall read:

- (5) Continuing Education for Reactivation of Retired License

- (a) An individual whose license has been retired for one (1) year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and can not be counted towards meeting the annual requirements of the following year.
 - (b) Along with the reactivation request, any electrologist who applies for reactivation of a license which has been retired for more than one (1) year must submit proof of attendance and completion of ten (10) hours of Board-approved continuing education. The electrologist who has retired his license may receive credit for courses completed during the time the license was retired provided that at least five (5) hours were completed within one (1) year preceding the application for reactivation.
- (7) Extension of Time to Complete or Waiver of Continuing Education Requirements
- (a) The Board may grant an extension of the deadline to complete the annual continuing education requirements or the Board may grant a waiver of the need to attend and complete the annual continuing education requirements if it can be shown that compliance is beyond the physical or mental capabilities of the person seeking the extension or waiver.
 - (b) Extensions or waivers of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - 1. A written request for an extension or waiver which specifies the deadline sought to be extended or the requirements sought to be waived, and a written and signed explanation of the reason for the request; and
 - 2. Any documentation which supports the reason(s) for the extension or waiver request or which is subsequently requested by the Board.
 - (c) A waiver or deadline extension approved by the Board is effective only for the calendar year for which either is sought.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-26-108, and 63-26-121.

0540-01-.19 Board Meetings, Officers, Consultants, Records, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraphs (9) and (10), so that as amended, the new catchline and the new paragraphs (9) and (10) shall read:

0540-01-.19 Board Meetings, Officers, Consultants, Declaratory Orders, and Screening Panels.

- (9) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.
- (10) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-138, 63-26-108, and 63-26-123.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 3rd day of July, 2007, and will become effective on the 16th day of September, 2007. (FS 07-06-07; DBID 2602)

Economic Impact Statement

The amendments to Rule 0540-01-.19 and to 0540-01-.12 (5) have no economic impact to small businesses.

- (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:

Amendments to 0540-01-.04, .05, .06, .08

(a) Electrologists who currently practice in a state which does not require licensure and are seeking licensure in Tennessee with the intent to practice independently, or as an employee, or as an independent contractor; and

(b) Employers of electrologists.

Amendment to 0540-01-.12

Continuing education course providers.

- (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.

- (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 minimal increased or new reporting, recordkeeping and other administrative costs that are required for compliance. The cost of compiling documentation for the new pathway to licensure will be more than offset by the additional income made available to licensees. The cost of compiling documentation to request a waiver of continuing education requirements or to request an extension of the deadline to complete continuing education requirements will be far less than the cost of completing additional continuing education courses or paying fines for not meeting continuing education requirements.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Amendments to 0540-01-.04, .05, .06, .08

The anticipated increase in licensees will increase competition for jobs and customers, and may therefore have a suppressing effect on salaries. However, consumers may find that electrology services are more readily available.

Amendment to 0540-01-.12

Continuing education course providers will possibly benefit by seeing an increase in course enrollment.

- (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:

Amendments to 0540-01-.04, .05, .06, .08

The Board does not believe there are less burdensome alternatives to the proposed rule amendments because the proposed easing of licensure requirements for out of state applicants is the less burdensome alternative.

Amendment to 0540-01-.12

The Board does not believe there are less burdensome alternatives because the intent of the proposed rule amendments is precisely that.

- (6) Comparison of the proposed rule with any federal or state counterparts:

Federal: The Board is not aware of any federal counterparts.

State: The proposed rule amendments regarding licensure of individuals who have practiced in a state that does not license electrologists and who have not taken an examination will have no state counterpart because the other health-related licensing boards in Tennessee only have rules stating the other state's licensure requirements must meet or exceed Tennessee's requirements. Those board's rules do not address individuals coming from states where licensure is not offered.

The proposed rule amendments regarding continuing education are similar to state rules for most of the health-related licensing boards, committees, and councils.

- (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 and the Board-approved continuing education course providers. If there were to be an exemption, the proposed rule amendments would have to actual effect. T.C.A. § 63-26-108 (a) (2) and (3) authorizes the Board to "establish continuing education requirements" and "establish standards for the training and practice of electrolysis".