

Rulemaking Hearing Rules

Board of Podiatric Medical Examiners

Chapter 1155-02

General Rules and Regulations Governing the Practice of Podiatry

Amendments

Rule 1155-02-.08, Examinations, is amended by inserting the following language as new paragraph (4) and renumbering the existing paragraph (4) as paragraph (5):

(4) Time limit for effectiveness of scores

- (a) The effectiveness of any examination required by this rule for purposes of measuring competency and fitness to practice podiatry and therefore eligibility for licensure is five (5) years from the date on which the examination was successfully completed. This is the date on which the applicant took the exam and not the date on which passing scores were reported to the Board.
- (b) An applicant's test score on an examination required by this rule which was taken more than five (5) years before application was for Tennessee licensure will be considered by the Board on a case by case basis after the applicant appears before the Board for an interview.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, 63-3-109, and 63-3-111.

Rule 1155-02-.12, Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the present subparagraphs (1) (b) and (1) (c) as subparagraphs (1) (c) and (1) (d):

- (1) (b) Beginning January 1, 2008, at least one (1) hour of the annual fifteen (15) hour requirement shall, every other calendar year, be a course designed specifically to address prescribing practices.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, and 63-3-116.

Rule 1155-02-.19, Board Meetings, Officers, Consultants, Records, Declaratory Orders, Advisory Rulings and Screening Panels, is amended by deleting subparagraph (3) (b) in its entirety and renumbering the present subparagraph (3) (c) as subparagraph (3) (b), and is further amended by adding the following language as new paragraph (8):

- (8) Stays and Reconsiderations – 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. §§ 4-5-107, 4-5-202, 4-5-204, 63-3-106, and 63-3-119.

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The rulemaking hearing rules set out herein were properly filed in the Department of State on the 9th day of August, 2007, and will become effective on the 23rd day of October, 2007. (FS 08-08-07; DBID 2651)

Economic Impact Statement

The amendments to Rule 1155-02-.08 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:

Amendment to 1155-02-.08 Examinations

- (a) Podiatrists who are licensed in other states, and are seeking licensure in Tennessee, and whose examination scores are over five (5) years old; and
- (b) Podiatric and medical practices that employ podiatrists.

Amendment to 1155-02-.12 Continuing Education

- (a) Podiatrists who practice as sole proprietors, or as members of a partnership or limited liability company, or as shareholders in a professional corporation; and
- (b) Podiatric and medical practices that pay for the continuing education of the podiatrists whom they employ; and
- (c) Continuing education course providers; and
- (d) Independently owned pharmacies.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

As of December 31, 2006, Tennessee had two hundred and forty-two (242) licensed podiatrists 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 no increased or new reporting, recordkeeping and other administrative costs that are required for compliance. However, applicants for licensure will need to be aware of when they successfully completed examinations in order to not exceed the time limit for effectiveness of scores. No new professional skills are necessary.

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

Amendment to 1155-02-.08 Examinations

Some podiatrists who are licensed in other states, and are seeking licensure in Tennessee and whose examination scores are over five (5) years old may have to take additional examinations or may not be able to obtain licensure in Tennessee. Also, podiatric and medical practices that employ podiatrists may have a smaller pool of qualified practitioners from which to select an employee or partner.

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- (a) Podiatrists and podiatric or medical practices who pay for the continuing education of the podiatrists whom they employ may have to pay higher registration fees to find a course

that will meet the proposed rule's requirements. Also, because of the way continuing education is offered, some podiatrists will end up completing an additional hour of continuing education instead of making the prescribing course part of the existing fifteen (15) hour requirement.

- (b) Podiatrists and podiatric or medical practices who employ podiatrists will realize the benefits of improved patient care as a result of having obtained knowledge of current prescribing practices, including possible efficiency improvements, reduced insurance costs, a lower probability of licensure or peer review discipline and a reduction in malpractice awards, judgments and settlements; and
 - (c) Continuing education course providers whose course registration revenues are less than their course development and presentation expenses will realize a loss from the course. However, some continuing education course providers will have course registration revenues exceed their course development and presentation expenses.
 - (d) Independently owned pharmacies may see a reduction in business if fewer prescriptions are filled as a result of improved prescribing practices.
- (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:

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It would be less burdensome to not promulgate this rule amendment, but the Board's confidence in the competence of reciprocity applicants would be diminished.

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The Board is concerned with Tennessee's history of excessive drug prescribing and drug consumption, and therefore does not believe there are less burdensome alternatives. Continuing education will not guarantee that a licensee learns or retains knowledge but the Board is not aware of any less burdensome alternative that holds similar promise and potential.

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

Amendment to 1155-02-.08 Examinations

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

State The proposed rule amendment is similar to time limits on exam scores established by the Board of Dentistry, the Board of Medical Examiners, and the Board of Dispensing Opticians.

Amendment to 1155-02-.12 Continuing Education

Federal The Board is not aware of any federal counterparts.

State The proposed rule amendment is similar to various continuing education category requirements for fifteen (15) of the health-related licensing boards, committees, and councils. Also, the Board presently has a requirement that twelve (12) hours of its fifteen (15) hour annual continuing education requirement pertain to clinical, scientific, or related to patient care. If the licensee is performing

ankle surgery pursuant ten (10) of those twelve (12) hours shall pertain to the ankle surgery.

- (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 amendments 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.