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Sequence Number: 09-04-14
 Rule ID(s): 5795
 File Date: 9/2/14
 Effective Date: 12/2/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Health
Division:	Board of Medical Examiners
Contact Person:	Andrea Huddleston, Deputy General Counsel
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.01	Definitions
0880-02-.19	Continuing Medical Education

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Rule 0880-02-.01 Definitions is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Board's Administrative Office - The office of the administrator assigned to the Tennessee Board of Medical Examiners and housed within the Division.

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

Rule 0880-02-.19 Continuing Medical Education is amended by deleting subparagraph (1)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(b) shall read:

- (b) Unless exempt under T.C.A. 63-1-402(c), all licensees holding a current Tennessee license shall complete a minimum of two (2) of the forty (40) required hours of continuing education related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.

Authority: T.C.A §§ 63-1-402, 63-6-101, and 63-6-233.

* 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)
Michael D. Zanolli, M.D.	x				
Subhi D. Ali, M.D.	x				
Dennis Higdon, MD	x				
Michael John Baron, M.D	x				
Jeff P. Lawrence, MD	x				
Neal Beckford, M.D.	x				
Keith Lovelady, M.D	x				
Clinton A. Musil, Jr., MD	x				
Patricia Eller	x				
Barbara Outhier	x				
Nina Yeiser	x				
W. Reeves Johnson, Jr. MD	x				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners (board/commission/ other authority) on 01/28/2014 (mm/dd/yyyy), 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: 10/08/13 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 01/28/14 (mm/dd/yy)

Date: 2-7-14

Signature: _____

Name of Officer: Andrea Huddleston

Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 2-7-14

Notary Public Signature: Lyannne McLeod

My commission expires on: April 19, 2017

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.

RE Cooper
 Robert E. Cooper, Jr.
 Attorney General and Reporter
8-28-14

Department of State Use Only

Filed with the Department of State on: 9/3/14

Effective on: 12/2/14

Tre Hargett

Tre Hargett
Secretary of State

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SECRETARY OF STATE

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments, either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

REGULATORY FLEXIBILITY ANALYSIS

- (1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These proposed rules do not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

- (2) Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rules exhibit clarity, conciseness, and lack of ambiguity.

- (3) The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rule amendments do not create flexible compliance and/or reporting requirements for small businesses, inasmuch as the rule amendment is required to comply with Public Chapter 430 (108th Tennessee General Assembly). Notably, the rule amendments do not change the total amount of continuing medical education hours required by licensees.

- (4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The reporting requirements established in these proposed rules are uniform for all licensed physicians and are as friendly and flexible as possible while achieving the Board's mission to protect the public and ensure competent licensees.

- (5) The consolidation or simplification of compliance or reporting requirements for small businesses.**

Compliance requirements contained in the rules are the same for all licensed physicians.

- (6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rules do not establish performance, design, or operational standards.

- (7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: *Board of Medical Examiners*

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

All medical doctors holding a current Tennessee license will be subject to the proposed rule amendments. The rule amendments are cost neutral as they do not increase the total required hours of CME. This rule amendment is required to comply with state law and would affect approximately 12,000 licensees.

- 2. 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 rule amendments do not affect the reporting requirements or other administrative costs for compliance. Medical doctors are already required to report and retain for compliance documentation of completion of all continuing medical education hours, and this rule amendment does not alter those requirements.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

This proposed rule amendment should have little effect on small businesses. Although there is an increased requirement that two of the forty CME hours must be related to the prescribing of controlled substances, the number of CME hour's remains at forty hours biennially.

- 4. 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:**

These rule amendments are not burdensome, intrusive, or costly. The proposed rules are required to comply with state law.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: The United States Code Annotated has requirements for military physicians to complete applicable continuing medical education requirements.

State: Almost all health related boards have some type of continuing education requirements.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

These rule amendments may not provide exemptions for small businesses as the rule amendments are required to comply with state law.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected financial impact on local governments."

The proposed rule amendments should not have an 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)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Board of Medical Examiners seeks to promulgate these rule amendments to comply with Public Chapter No. 430, passed by the 108th General Assembly and signed by the Governor on May 16, 2013 requiring two hours of continuing education to be in prescribing practices.

- (B)** 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;

2013 Public Chapter 430.

- (C)** 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;

All medical doctors holding a current Tennessee license will be subject to the proposed rule amendments.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E)** 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;

These proposed rules should not result in any increase or decrease in state and local government revenues and expenditures.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Andrea Huddleston, Deputy General Counsel, Department of Health.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Andrea Huddleston, Deputy General Counsel, Department of Health will explain the rule at a scheduled meeting of the committees.

- (H)** 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

Andrea Huddleston, Deputy General Counsel, Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, TN 37243, Andrea.Huddleston@tn.gov; (615)741-1611.

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.