

Rulemaking Hearing Rules
Board of Osteopathic Examination

Chapter 1050-02
General Rules and Regulations Governing the Practice of Osteopathy

Chapter 1050-03
General Rules and Regulations Governing the Utilization of
X-Ray Operators in Osteopathic Physicians' Offices

Amendments

Rule 1050-02-.04 Training, 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:

- (1) (b) A special training license may be issued for a one (1) year period only but may be renewed each year on its anniversary date so long as the applicant is still in training and upon submission of a written renewal request from the training program director and payment of the Special Training License Fee as provided in Rule 1050-02-.02 (1) (h).

Authority: T.C.A. §§ 63-9-101, 63-9-104, and 63-9-107.

Rule 1050-02-.10 Licensure Discipline and Civil Penalties, is amended by deleting subparagraph (1) (g) and substituting instead the following language, so that as amended, the new subparagraph (1) (g) shall read:

- (1) (g) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
1. During any period of probation, suspension; or
 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-9-101 and 63-9-111.

Rule 1050-02-.13 Specifically Regulated Areas and Aspects of Medical Practice, is amended by deleting paragraph (11) in its entirety and substituting instead the following language, so that as amended, the new paragraph (11) shall read:

- (11) 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 titles "Osteopathic Physician," "Osteopathic Physician and Surgeon," "Doctor of Osteopathic Medicine," "Doctor of Osteopathy," or "D.O." and to practice osteopathic medicine, as defined in T.C.A. §§ 63-9-106. Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every "advertisement" [as that term is defined in rule 1050-02-.11 (2) (a)] 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 physician to disciplinary action pursuant to T.C.A. § 63-9-111(b) (1), (b) (3), (b) (10) and (b) (19).

Authority: T.C.A. §§ 63-1-145, 63-9-101, and 63-9-111.

Rule 1050-03-.04 Qualifications for Full and Limited Certification, is amended by deleting subparagraph (1) (c) in its entirety and substituting instead the following language, and is further amended by inserting the following language as new subparagraph (1) (d) and renumbering the current subparagraphs (1) (d) and (1) (e) as subparagraphs (1) (e) and (1) (f), and is further amended by inserting the following language as new paragraph (2) and renumbering the current paragraphs (2) through (5) as paragraphs (3) through (6), so that as amended, the new subparagraphs (1) (c) and (1) (d), and the new paragraph (2) shall read:

- (1) (c) Skull - AP/PA and Lateral Skull Only, and Sinuses (until June 1, 2008)
- (1) (d) Skull and Sinus (on and after June 1, 2008)
- (2) On June 1, 2008, the certificates that are designated "Skull - AP/PA and Lateral Skull Only, and Sinuses" shall automatically be converted to the designation "Skull and Sinus" without any further action by the holder of such limited certification.

Authority: T.C.A. §§ 63-9-101 and 63-9-112.

Rule 1050-03-.05 Obtaining and Upgrading Full and Limited Certification, is amended by deleting part (1) (b) 5. but not its subparts and substituting instead the following language, so that as amended, the new part (1) (b) 5. but not its subparts shall read:

- (1) (b) 5 Applicants applying pursuant to Rule 1050-03-.04 (4) need only submit the following:

Authority: T.C.A. §§ 63-9-101 and 63-9-112.

Rule 1050-03-.07 Educational Course Approval and Curriculum for Limited Certification, is amended by deleting part (2) (b) 1, subparagraph (2) (c), subpart (2) (d) 2. (i), and part (2) (d) 3, in their entirety and substituting instead the following language, so that as amended, the new part (2) (b) 1, subparagraph (2) (c), subpart (2) (d) 2 (i), and part (2) (d) 3 shall read:

- (2) (b) 1 Chest, extremities, skull, sinus, spine - Defined as the study of radiography of a particular anatomical part including human structure and function, radiographic positioning and procedures, and evaluation of radiographs. Each separate specialty area course shall minimally consist of the following amount of classroom clock hours:
- (i) Chest - ten (10) classroom clock hours;
 - (ii) Extremities - until June 1, 2008 ten (10) classroom clock hours and thereafter forty (40) classroom clock hours;
 - (iii) Skull and Sinuses - ten (10) classroom clock hours; and
 - (iv) Spine - until June 1, 2008, ten (10) classroom clock hours and thereafter thirty (30) classroom clock hours.
- (2) (c) Clinical Training - Defined as "hands-on" observation and participation in the production of diagnostic radiographs. Clinical training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a fully-licensed and registered operator (A.R.R.T. registered radiographer) with at least three (3) years experience when appropriate. This training shall minimally consist of the following amount of clinical clock hours for each specialty area in which certification is sought:
- 1. Chest - sixty (60) clinical clock hours;
 - 2. Extremities - until June 1, 2008, sixty (60) clinical clock hours and thereafter eighty (80) clinical clock hours;
 - 3. Skull and Sinuses - sixty (60) clinical clock hours; and
 - 4. Spine - until June 1, 2008, sixty (60) clinical clock hours and thereafter eighty (80) clinical clock hours.
- (2) (d) 2. (i) Upper Extremity includes all routine views of the fingers up through the pectoral girdle.
- (2) (d) 3Skull and Sinuses
- (i) Skull - includes AP/PA, Townes and Lateral.
 - (ii) Sinuses - includes upright PA/Caldwell, Lateral, and Waters.

Authority: T.C.A. §§ 63-9-101 and 63-9-112.

Rule 1050-03-.12 Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the existing subparagraph (1) (b) as (1) (c):

- (1) (b) Two (2) of the required twenty (20) biennial continuing education hours must be pertaining to appropriate statutes, rules and regulations, and other subjects that

would be directly related to compliance with, and/or penalties for non-compliance of the statutes, rules and regulations. This course must include content pertaining to the A.R.R.T.'s Standards of Ethics if the certificate holder is fully certified.

Authority: T.C.A. §§ 63-9-101 and 63-9-112.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 21st day of October, 2008, and will become effective on the 4th day of January, 2009. (10-11-08; DBID 3531-3532)

Addendum

Economic Impact Statement

The amendments to Rules 1050-02-.04 and 1050-02-.10 will 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 1050-02-.13

Osteopathic physicians and osteopathic medical practices that advertise

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- (a) Providers of classroom education and clinical training for limited scope osteopathic x-ray operators;
- (b) Limited scope osteopathic x-ray operators who provide their services in osteopathic physician offices as independent contractors, rather than as employees;
- (c) Osteopathic physicians, who as employers of limited scope osteopathic x-ray operators, pay for and/or provide their classroom education and clinical training; and
- (d) Osteopathic physicians, who as employers of limited scope osteopathic x-ray operators, may have less need for the services of higher-paid, fully certified (RTs) osteopathic x-ray operators.
- (2) Identification and estimate of the number of small businesses subject to the proposed rule:
- As of December 31, 2006, Tennessee had seven hundred and fourteen (714) licensed osteopathic physicians who were eligible for licensure renewal and 16 osteopathic x-ray operators who were eligible for certification 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. No new professional skills are required.

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

Amendment to 1050-02-.13

Osteopathic physicians and osteopathic medical practices that advertise may have to revise advertisements which have been previously developed and/or currently running. Consumers will benefit from more accurate advertisements.

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Providers of classroom education and clinical training for limited scope osteopathic x-ray operators will initially have additional routine course development and presentation expenses because of the proposed changes to requirements but will also have additional routine revenue coming from the increase in requirements.

Anyone who bears the cost of the classroom education and/or clinical training will be adversely impacted if the applicable specialties result in additional expenses for education and/or training.

Osteopathic physicians, who as employers of limited scope x-ray operators, may have less need for the services of higher-paid, fully certified x-ray operators (RTs).

Consumers may see reductions in the cost of x-rays if more limited operators do work previously assigned to higher-paid, fully certified x-ray operators (RTs).

- (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:

Amendment to 1050-02-.13

Regarding the "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.

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The Board believes there is no alternative to requiring education and training in quantities sufficient to protect the health, safety and welfare of Tennesseans.

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

Federal The Board is not aware of any federal counterparts. Osteopathic physicians and x-ray operators are not licensed by the federal government.

State

Amendment to 1050-02-.13

The proposed rule amendment regarding use of titles will be promulgated at all of the health related licensing boards.

Amendments to 1050-03

The proposed rule amendments are very similar to rules being promulgated by the Board of Medical Examiners.

- (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 certificate holders. If there were to be an exemption, the proposed rule amendments would have no actual effect. Also, because the Board recognizes it does not regulate educational course providers to the same extent and in the same manner as it regulates osteopathic physicians and x-ray operators, it has attempted to minimize the amount of rules which pertain to them. However, rules which pertain to general education requirements and continuing education requirements will inherently affect course providers.