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Email: publications.information@tn.gov

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Sequence Number: 10-07-24
Rule ID(s): 10185
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Effective Date: 1/8/2025

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Board of Podiatric Medical Examiners
Division:
Contact Person: Ashley L. Fine, Senior Associate Counsel
Holt Whitt, Assistant Commissioner for Legislative Affairs
Address: 665 Mainstream Drive, Nashville, TN
710 James Robertson Parkway, 5th Floor, Nashville, TN
Zip: 37243
Phone: (615) 741-1611
(615) 741-0948
Email: Ashley.1.Fine@tn.gov
Holt.Whitt@tn.gov

Revision Type (check all that apply):

Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1155-04	General Rules Governing Orthotists, Prosthetists, and Pedorthists
Rule Number	Rule Title
1155-04-.12	Continuing Education

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). 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 1155-04
General Rules Governing Orthotists, Prosthetists, and Pedorthists

Amendments

Rule 1155-04-.12 Continuing Education is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

- (1) Each licensed orthotist, prosthetist and pedorthist must annually complete fifteen (15) hours of continuing education in courses applicable to his/ her profession. At least six (6) hours of the continuing education each year must be obtained by each licensee from providers in the state of Tennessee. No more than seven (7) hours of the annual requirement shall be completed by any of the means listed in Rule 1155-02-.12(1)(d).

Authority: T.C.A. § 63-3-202.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chad Webster, D.P.M.	X				
Bhekumuzi Khumalo, D.P.M.	X				
Kelley Bumpus, D.P.M.	X				
Christopher Frazier, D.P.M.	X				
Aaron Sorensen, Ph.D.				X	
Vacant					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board of Podiatric Medical Examiners on 08/09/2024, and is in compliance with the provisions of T.C.A. § 4-5-222 and T.C.A § 4-5-202(a)(2)(C)(ii). The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: August 27, 2024

Signature: Ashley L. Fine


Name of Officer: Ashley L. Fine

Title of Officer: Senior Associate Counsel, Department of Health

Agency/Board/Commission: Board of Podiatric Medical Examiners

Rule Chapter Number(s): 1155-04

All proposed 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.


Jonathan Skrmetti
Attorney General and Reporter
October 8, 2024
Date

Department of State Use Only

Filed with the Department of State on: 10/10/2024

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Secretary of State
Division of Publications


Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

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

These rule amendments do not overlap, duplicate, or conflict with other federal, state, and local government rules.

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

These rule amendments are established with clarity, conciseness, and lack of ambiguity.

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

These rule amendments do not contain reporting requirements.

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

These rule amendments do not contain reporting requirements.

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

These rule amendments do not contain reporting requirements.

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

These rule amendments do not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

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

These rule amendments do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovations, or increase costs.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

These rule amendments should not have any impact on local government.

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 Podiatric Medical Examiners is amending Rule 1155-04-.12 by increasing the number of virtual continuing education hours allowed annually for orthotists, prosthetists, and pedorthists from five (5) hours to seven (7) hours. These licensees will still be required to obtain a total of fifteen (15) continuing education hours annually, but after this rule amendment becomes effective, only eight (8) hours will be required to be obtained in-person.

Rule 1155-04-.12 is also being amended to change an incorrect reference at the end of paragraph (1) from 1155-02-.12(1)(e) to 1155-02-.12(1)(d).

- (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;

Tenn. Code Ann. § 63-3-202(a) provides the Board with authority to adopt rules and regulations to delineate the actions of licenses relative to orthotists, prosthetists, and pedorthists. Specifically, Tenn. Code Ann. § 63-3-202(a)(8) grants the Board authority to establish continuing education requirements for license holders. This rule amendment will increase the amount of continuing education hours that may be obtained virtually by two (2) hours. Thus, this rule falls within the scope of Tenn. Code Ann. § 63-3-202(a)(8) because the rule sets forth continuing education requirements.

- (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;

This rule will affect licensed orthotists, prosthetists, and pedorthists.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate 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 rules should not impact revenues or expenditures.

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

Ashley L. Fine, Senior Associate 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;

Ashley L. Fine, Senior Associate Counsel, Department of Health.
Holt Whitt, Assistant Commissioner for Legislative Affairs, Department of Health.

- (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

Department of Health, Office of General Counsel, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, 615-

741-1611, Ashley.1.Fine@tn.gov, 710 James Robertson Parkway, 5th Floor, Nashville, TN 37243, (615) 741-0948, Holt.Whitt@tn.gov.

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

These proposed rules were initially filed by the Department as Rulemaking Hearing Rules on March 6, 2024. The Department then filed a withdrawal of the Rulemaking Hearing Rules on May 21, 2024 due to a clerical error when generating the Rulemaking Hearing Rules filing form (7039), which would have caused the entire rule to be deleted and replaced with paragraph (1). The Department filed a petition with the Government Operations Committee pursuant to T.C.A. § 4-5-202(a)(2)(C)(ii) seeking approval to refile these rules as proposed rules since a rulemaking hearing was properly noticed and conducted by the Board of Podiatric Medical Examiners on August 11, 2023. On July 31, 2024, the Committee approved the Department's petition. The Board voted to move forward with the proposed rules on August 9, 2024.

1155-04-.12 CONTINUING EDUCATION

- (1) Each licensed orthotist, prosthetist and pedorthist must annually complete fifteen (15) hours of continuing education in courses applicable to his/ her profession. At least six (6) hours of the continuing education each year must be obtained by each licensee from providers in the state of Tennessee. No more than seven (7) ~~five (5)~~ hours of the annual requirement shall be completed by any of the means listed in Rule 1155-02-.12(1)(d)~~(e)~~.
 - (a) A person who is licensed in more than one (1) profession under these rules shall annually complete a total of twenty (20) hours of continuing education.
 - (b) Of the twenty (20) hours required by subparagraph (a), six (6) hours shall be subjects pertaining to each profession in which he/she is licensed. For example, a person who is licensed as a orthotist and as a prosthetist is required to complete six (6) hours pertaining to orthotics and six (6) hours pertaining to prosthetics. The remaining eight (8) hours required could pertain to either orthotics or prosthetics.
- (2) Acceptable continuing education shall consist of courses provided, approved, or sponsored by:
 - (a) The American Board for Certification in Orthotics and Prosthetics, Inc.;
 - (b) The Board for Orthotist/Prosthetist Certification;
 - (c) The Board for Certification in Pedorthics;
 - (d) The Pedorthic Footwear Association;
 - (e) Tennessee Orthotic and Prosthetic Facilities, Inc.;
 - (f) The Tennessee Podiatric Medical Association; and
 - (g) Any other entity whose education programs have been approved by the Board.
- (3) Course Approval
 - (a) Courses to be offered for credit toward the required continuing education hours must, unless provided, approved or sponsored by an entity listed in paragraph (2), receive prior approval from the Board.
 - (b) Prior approval of a course may be obtained by submitting the following information to the Board's administrative office at least forty-five (45) days prior to the scheduled date of the course:
 1. A course description or outline;
 2. Names of all lecturers;
 3. Brief resume of all lecturers;
 4. Number of hours of educational credit requested;
 5. Date and location of course or how to access the course electronically;

6. How certification of attendance is to be documented; and

7. The Continuing Education Course Accreditation Fee required to be paid pursuant to Rule 1155-04-.09.

- (4) Each licensee must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was required. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process. The Board will not maintain continuing education files.
- (5) Each licensee must, within thirty (30) days of a request from the Board, provide evidence of continuing education activities. Certificates verifying the individual's attendance or original letters from course providers are such evidence.
- (6) Licensees are exempt from the continuing education requirements for the calendar year that the requirements of Rule 1155-04-.06 were completed.
- (7) Violations
 - (a) Any person who falsely attests to attendance and completion of the required hours of continuing education may be subject to disciplinary action.
 - (b) Any person who fails to obtain the required continuing education hours may be subject to disciplinary action.
- (8) Education hours obtained as a result of compliance with the terms of a Board order in any disciplinary action shall not be counted toward the continuing education hours required to be obtained by paragraph (1) of this rule.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-3-106, 63-3-202, 63-3-203, and 63-3-205.~~