

**RULES
OF
TENNESSEE BOARD OF ELECTROLYSIS EXAMINERS
DEPARTMENT OF HEALTH
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 0540-03
GENERAL RULES GOVERNING SCHOOLS OF ELECTROLOGY**

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0540-03-.01 DEFINITIONS. As used in these rules, the terms and acronyms shall have the following meanings ascribed to them.

- (1) Advertisement - Informational communication to the public in any manner designed to attract public attention to the practice of electrology.
- (2) Advertising - Includes, but is not limited to business solicitations, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual(s), radio, video, or television broadcasting or any other means designed to secure public attention.
- (3) Applicant - Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.
- (4) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell or provide. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.
- (5) Board - The Tennessee Board of Electrolysis Examiners.
- (6) Board Administrative Office - The office of the administrator assigned to the Tennessee Board of Electrolysis Examiners located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (7) Closed File - An administrative action which renders an incomplete or denied file inactive.
- (8) Contagious - That which can be transmitted by direct or indirect contact.
- (9) Course of Instruction -The complete body of prescribed subjects or studies to prepare students for admission to an examination for electrology licensure.
- (10) Department - Tennessee Department of Health.
- (11) Direct Supervision - Personal, on-site, and visual observation.

(Rule 0540-03-.01, continued)

- (12) Discounted fee - A fee offered or charged by a person or organization for any electrology product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee."
- (13) Disinfectant - An agent that destroys or neutralizes harmful microorganisms.
- (14) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (15) Electrology - The art and practice relating to the removal of hair from the normal skin by the application of an electric current to the hair root by means of a needle or needles, whether the process employs direct electric current or short wave alternating electric current or combination of both, or by F.D.A. approved laser beam process designated for permanent hair removal. Electronic tweezers or nonneedle methods are prohibited within the practice of electrology.
- (16) Electrology Instructor - An electrologist who is licensed by the Board to practice and teach electrology.
- (17) Electrology-related - Means workshops, seminars, conferences, classes, or home study courses approved by a state, regional, or local electrology professional association or institution of higher education.
- (18) Electrologist - Any person practicing electrolysis for the-permanent removal of hair.
- (19) Electrolysis - The process by which the hair is removed from the normal skin by the application of an electric current to the hair root by means of a needle or needles, whether the process employs direct electric current or short wave alternating electric current or combination of both, or by F.D.A. approved laser beam process designated for permanent hair removal.
- (20) Equivalent - Comparable but not identical, covering the same subject matter.
- (21) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also the required licensure fee(s).
- (22) Fee Splitting - The practice of paying commissions to colleagues out of fees received from clients who have been referred by the colleague for rendering services.
- (23) He/she, Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders,
- (24) HRB - When the acronym "HRB" appears in the text of these rules, it represents Health Related Boards.
- (25) Infectious - That which is capable of being transmitted without physical contact.
- (26) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.
- (27) Licensee - Any person who has been lawfully issued a license to practice electrology. Where applicable this shall include instructors or schools in the State of Tennessee.

(Rule 0540-03-.01, continued)

- (28) Limited - When used in reference to a credential, means to impose conditions and requirements upon the holder of the credential, and to restrict the scope of the holder's practice.
- (29) Official Transcript - Document certified by an approved school indicating hours and type of course work, examinations, and scores.
- (30) Material Fact - Any fact which an ordinary, reasonable and prudent person would need to know or rely upon in making an informed decision concerning the choice of electrologists regarding the utilization of electrology services to serve his or her particular needs.
- (31) Notification of Training Form - The form available from the Board's administrative office which must be completed by a limited license trainee and signed by the supervising dermatologist and received by the Board's administrative office at least ten days prior to beginning training.
- (32) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (33) Recognized education institution - Any educational institution that is accredited by a nationally or regionally recognized educational body.
- (34) Registrant - Any person who has been lawfully issued a license.
- (35) School - An electrology school teaching the art of electrology.
- (36) Student - Any person who is not licensed to practice electrology and who is engaged in learning or acquiring a knowledge of electrology. While so learning, the student performs or assists in any of the practices of electrology under the direct supervision of an electrology instructor and only within the school's premises. This definition also applies to those individuals who are engaged in limited license training.
- (37) Use of a title or description - To hold himself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, business cards, or other means of professional identification.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-101, 63-1-102, 63-26-101, 63-26-102, 63-26-104, 63-26-108, 63-26-111, and 63-26-119. **Administrative History:** Original rule filed September 29, 1989; effective November 13, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 28, 2002; effective January 11, 2003.

0540-03-.02 SCOPE OF PRACTICE.

- (1) The license to open and operate a school of electrology is prescribed and limited to the Tennessee Code Annotated (see especially T.C.A. §§62-26-101, *et seq.*). The license is conferred by the Tennessee Board of Electrolysis Examiners for schools which have been found to meet established standards.
- (2) Any school of electrology which possesses a valid unsuspended and unrevoked license has the right to use the title school of electrology. No other school shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the school using the same is a licensed school of electrology. The work performed includes electrology or the teaching of electrology services to the public.

Authority: T.C.A. §§4-5-203, 4-5-204, 63-26-108, 63-26-111, 63-26-112, 63-26-119, and 63-26-122. **Administrative History:** Original chapter filed December 15, 1988; effective January 29, 1989.

(Rule 0540-03-.02, continued)

Amendment filed January 5, 1990; effective February 19, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

0540-03-.03 NECESSITY OF LICENSURE.

- (1) Before a person may open a school of electrology, the person shall submit an application to the board's administrative office and secure the board's approval of the application.
- (2) No school of electrology shall operate without a valid license issued by the board. Any school of electrology which opens or operates without being licensed or expressly exempted by the laws is in violation of division law, T.C.A. §63-1-123.
- (3) No other person may provide instruction in a school of electrology unless the person holds a current electrologist license and a current electrology instructor license issued by the board.
- (4) Before a person may provide limited licensure instruction, he must be a board certified or board eligible dermatologist who has-provided to the board's satisfaction evidence of continuing education in electrology theory and practice.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-123, 63-26-108, 63-26-119, 63-26-122, and 63-26-123.

Administrative History: Original rule filed September 29, 1989; effective November 13, 1989. Amendment filed September 29, 1989; effective November 4, 1991. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

0540-03-.04 STANDARDS FOR LICENSE. The following shall constitute minimum standards required to be furnished on a nondiscriminatory basis to all students before any school will be granted a license:

- (1) Staff
 - (a) Program Director. Each school shall at all times be under the direction and supervision of a licensed practicing electrologist, who also is licensed as an electrology instructor and who is recognized by the Council of Electrolysis Education or the National Electrolysis Organization or an equivalent organization. The program director of each school shall be responsible for the organization, administration, development, and general effectiveness of the electrolysis training program.
 - (b) Instructional Staff. Any person teaching in the school of electrology shall meet the qualifications for and be licensed pursuant to T.C.A. §63-26-112 as an electrology instructor.
- (2) Facilities - All buildings where courses of instruction are being conducted must comply with all municipal, county, state, and federal regulations as to fire, safety, health, and sanitation codes or regulations.
- (3) Equipment
 - (a) Each electrology school shall maintain the following equipment on the school's premises at all times:
 1. One high frequency or thermolysis machine;
 2. One galvanic or electrolysis machine or one combination machine;
 3. One dozen epilation probes or needles of size 002, 003, 004;

(Rule 0540-03-.04, continued)

4. Adequate lamps and light bulbs for illuminating treatment areas;
5. Treatment table and chair for patients and adjustable stool for operator;
6. A towel and utility cabinet;
7. Covered containers for all lotions, soaps, sterilizing agents, cotton swabs and tissues necessary for electrolysis treatment;
8. Fine pointed epilation forceps; and
9. Sterilization equipment sufficient to insure against the spread of infectious diseases.

(b) All equipment shall be maintained in good working order and shall be updated as required.

(4) Curriculum

(a) A person wishing to obtain board approval for a school of electrology shall provide and maintain a course of study of at least 600 hours, 175 hours of theory and 425 hours of clinical practice training. The curriculum for a school of electrology shall include the following:

	Subject	Hours
1.	Electrology Theory	
	(i) General Orientation	3
	(I) History of Electrology	
	(II) School Program/School Rules	
	(III) State law and regulations	
	(IV) Supplies	
	(ii) Causes of Hair Problems	15
	(iii) Structure of Hair and Skin	27
	(I) Skin Structure	
	(II) Functions of Skin	
	(III) Insertion	
	(IV) Histology of Lilo sebaceous Unit	
	I. Types of hair structure	
	II. Follicle structure - lanugo, terminal	
	III. Hair growth/re-growth	

(Rule 0540-03-.04, continued)

IV. Dermatology/Trichology		
(iv)	Neurology and Angiology	10
	(I) Central Nervous System	
	(II) Circulatory System	
(v)	Microbiology, Bacteriology and disinfecting, Hygiene	10
	(I) Pathogenic and non-pathogenic	
	(II) Growth/reproduction	
	(III) Infection/viruses	
	(IV) Methods of sterilization	
(vi)	Principles of Electricity and Equipment	10
(vii)	Modalities of Electrology	75
	(I) Electrolysis	
	I. Single needle method	
	II. Multiple needle method	
	(II) Thermolysis	
	I. Manual	
	II. Automatic	
	(III) Blend	
(viii)	General Treatment Procedure	15
	(I) Consultation	
	(II) After Treatment	
(ix)	Development of a Practice	10
	(I) Office procedures and management	
	(II) Bookkeeping and accounting	
	(III) Public relations and advertising	
2.	Clinical Experience (Supervised)	

(Rule 0540-03-.04, continued)

- (i) The clinical experience shall consist of actual electrolysis treatments applied to the following areas of the human anatomy for at least the following specified number of hours:
 - (I) Legs (including lower legs, thighs, knees, and toes) 90
 - (II) Arms (including lower and upper arms, elbows, and fingers) 90
 - (III) Face including chin, cheeks, skin area around the eyes, lips, nose, forehead and ears) 155
 - (IV) Torso (including throat, napeline, underarm, chest, breast, back and abdomen) 90
 - (ii) Hours spent in clinical treatment of patients
 - (I) Students shall adhere to the following limitations in the clinical treatment of patients with electrolysis:
 - I. No more than two (2) hours per day during the first fifty (50) hours of the required 425 hours of clinical treatment of electrolysis patients;
 - II. No more than three (3) hours per day during the next 200 hours of such clinical work; and
 - III. No more than four (4) hours per day during the remaining hours of such clinical work;
 - IV. No student shall engage at any one time in the continuous clinical treatment of an electrolysis patient in excess of one and one half hours.
 - (b) Each electrology school shall at all times provide a curriculum necessary to satisfy the instruction and clinical experience required in electrolysis necessary for licensure as provided for in these rules.
 - (c) In performing the electrolysis treatment specified in this rule, due consideration must be given to the various positions and techniques of electrolysis treatment as well as the relative skin conditions before and after electrolysis treatment.
- (5) Student Practice
- (a) A school shall not permit a student with less than 120 hours of training to perform electrology services on the public. The 120 school hours shall consist of not less than 35 classroom theory hours and not less than 85 hours of practical study.
 - (b) A student, before receiving a license, shall not practice electrology on the public outside the school.
 - (c) Identification. Students and limited license trainees shall be required to wear a name badge indicating "STUDENT".

(Rule 0540-03-.04, continued)

- (d) A student practicing on the public outside the school or outside the approved limited license training program may be deemed ineligible to take the state board examination.
- (6) Student Records
- (a) A school shall keep permanent records of students which shall be maintained not less than five years after termination of training. The record will include all of the following:
 - 1. A summary of the student's attendance record
 - 2. A summary of the student's training
 - 3. The date of the student's enrollment
 - 4. The student's final grades and completion date
 - 5. A copy of the student's contract
 - (b) A school shall keep temporary records of students which shall be maintained for two (2) years after the termination of training and which shall include the following:
 - 1. The daily attendance record
 - 2. A daily record of the type of services and practical applications performed
 - 3. Progress records
- (7) Fees for treatment by electrolysis performed by a student are prohibited. No electrology school or student enrolled in such school shall directly or indirectly accept any remuneration or make any charge for services rendered to patients by the students of such school, provided; however, a nominal charge may be made to cover expenses of equipment and materials used in the treatment of such patients.
- (8) Restriction on training time period.
- (a) No student shall be permitted to spend time in training, in excess of five (5) days per week and six (6) hours per day.
 - (b) All students, including limited license trainees, shall have completed the electrology theory and clinical training within a twelve (12) month time frame from the date started.
- (9) Completion of Training. Upon completion of the training:
- (a) The program director must submit to the Board's administrative office sufficient evidence documenting that the student has satisfactorily completed the course curriculum pursuant to this rule; and
 - (b) The student must apply for licensure pursuant to Rule 0540-01-.05.
- (10) Posting of board Law and Rules and Regulations. Each school shall routinely obtain a copy of the Board's law and rules to be posted in a conspicuous place within the school.
- (11) School records shall be open to inspection and photo copying by the Board upon reasonable notice and during business hours.

(Rule 0540-03-.04, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-111, and 63-26-119. **Administrative History:** Original rule filed September 29, 1989; effective November 13, 1989. Amendment filed July 20, 1992; effective September 3, 1992. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed January 31, 2000; effective April 15, 2000. Amendment filed August 18, 2006; effective November 1, 2006. Amendment filed January 7, 2010; effective April 7, 2010.

0540-03-.05 PROCEDURES FOR LICENSE. To acquire a license to operate a school of electrology in Tennessee a person must comply with the following procedures and requirements.

- (1) Obtain an application form from the Board's administrative office.
- (2) Applications for licensure will be accepted throughout the year. However, an application to open a school of electrology shall be submitted to the board at least 90 days before the proposed date of opening.
- (3) The application and State Regulatory fees must accompany the application for license, pursuant to Rule 0540-03-.06. The application must be completed in its entirety, notarized, signed, and submitted to the Board's administrative office.
- (4) The application shall be accompanied by a copy of the school's curriculum and course outline.
- (5) Provide the Board with the name, address, telephone number, license number, and license expiration date for each electrology instructor affiliated with the school.
- (6) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - (b) The denial of licensure application by any other state or the discipline of the licensee in any state.
 - (c) Loss or restriction of certification or licensure privileges.
 - (d) Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory, common, or case law.
 - (c) Where necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source shall be submitted.
- (7) Application review and licensure decisions shall be governed by Rule 0540-03-.07.
- (8) The licensure fee must be received in the Board's administrative office on or before the 30th day from receipt of notification that the license fee is due. Failure to comply will result in the application file being closed.
- (9) A license will be issued only after all requirements, including payment of a license fee, pursuant to Rule 0540-03-.06 have been met.
- (10) If the program director has ever held a license to operate a school in any other state, the individual shall submit or cause to be submitted the equivalent of a Tennessee Certificate of

(Rule 0540-03-.05, continued)

Endorsement (verification of licensure) from each such licensing board which indicates the status of the license and whether it is in good standing.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-111, 63-26-112, 63-26-113, 63-26-119, 63-26-122, and 63-26-125. **Administrative History:** Original rule filed September 29, 1989; effective November 13, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

0540-03-.06 FEES.

- (1) The fees are as follows:
 - (a) Application Fee - A non-refundable fee to be paid each time an application for license is filed.
 - (b) Endorsement/Verification - A non-refundable fee paid for each certification, verification, or endorsement of an individual's record for any purpose.
 - (c) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license.
 - (d) License fee - A non-refundable fee to be paid prior to the issuance of the initial license.
 - (e) License Renewal fee - A non-refundable fee to be paid by all license holders. This fee also applies to individuals who reactivate a retired or lapsed license.
 - (f) Replacement License fee - A non-refundable fee to be paid when a request is made for a replacement when the initial license has been lost or destroyed.
 - (g) State Regulatory Fee - To be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees shall be established, reviewed and changed by the Board.
- (3) All applicable fees must be submitted to the Board's administrative office by certified check, personal check, or money order and made payable to the Tennessee Board of Electrology.
- (4) Fee Schedule:

(a) Application	\$550.00
(b) Endorsement Verification	50.00
(c) Late Renewal	200.00
(d) License (Initial)	200.00
(e) License Renewal (annual)	680.00
(f) Replacement License	50.00
(g) State Regulatory Fee (annual)	5.00

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-26-108, 63-26-109, 63-26-111, 63-26-112, 63-26-113, 63-26-114, 63-26-119, and 63-26-120. **Administrative History:** Original rule filed January 4, 1990; effective February 18, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

Amendment filed March 18, 2003; effective June 1, 2003. Amendment to rule filed April 29, 2008; to be effective July 13, 2008; however, on June 24, 2008, the House Government Operations Committee stayed the rule amendment; new effective date August 16, 2008.

0540-03-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Each completed school application received in the Board's administrative office on or before the 30th day prior to a Board meeting will be presented at the next regularly scheduled meeting for the purpose of reviewing files.
- (2) Applications are not considered completed until all information, including fees, has been received by the Division.
- (3) Initial review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator, provided that final approval of all applications is made and ratified by the Board. In no event may an application be approved or denied without prior review by a member of the Board.
- (4) If an application is incomplete when received in the Board's administrative office, a deficiency letter will be sent to the applicant notifying him of the deficiency. The requested information must be received in the Board's administrative office on or before the 30th day after receipt of the notification.
 - (a) Such notification shall be sent certified mail return receipt requested from the Board's administrative office.
 - (b) If the requested information is not timely received, the application file shall be closed and the applicant notified. No further Board action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.
- (5) Each member of the Board is vested with the authority to make the initial determination.
- (6) Upon approval of the application, the applicant will be notified.
- (7) The Board may at its discretion delay a decision on an application to operate a school of electrology if the Board wishes additional information.
- (8) If a completed application has been denied and ratified as such by the Board, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board's administrative office by certified mail return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §4-5-101, et seq.) to contest the denial and the procedure necessary to accomplish that action.

- (c) An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 - (d) An applicant may be granted a contested case hearing if licensure denial is based on objective, clearly defined criteria. If after review and attempted resolution by the Board's administrative staff, the licensure application can not be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal, an appeal hearing may be requested. Such request must be made in writing to the Board within 30 days of the receipt of the notice of denial from the Board.
- (9) Any person furnishing false information or omitting pertinent information in such application shall be denied licensure to operate a school of electrology. If the applicant has already been licensed before the falseness of such information has been made known to the Board, such license shall be subject to suspension or revocation by the Board.
- (10) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to annul the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within 30 days from date of receipt of the notification.
- (11) Whenever requirements for licensure are not completed within 12 months from the date of the initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.
- (12) Abandonment of Application
- (a) An application shall be deemed abandoned and closed if the application has not been completed by the applicant within 12 months after it was initially reviewed by the Board.
 - (b) Whenever the applicant fails to complete the application process as stated in Rule 0540-03-.07(12)(a) above, written notification will be mailed to the applicant notifying him that the file has been closed. A determination of abandonment must be ratified by the Board.
 - (c) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-106, 63-26-108, 63-26-111, 63-26-112, and 63-26-119.
Administrative History: Original rule filed October 31, 1990; effective December 15, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

0540-03-.08 EXAMINATIONS.

- (1) School Examinations
 - (a) A school shall give written, practical, and oral school examinations on all curriculum subjects.
 - (b) Final examination papers shall not be returned to the student.
- (2) Board Examination. Prior to filing an application to take the state board examination, pursuant to Rule 0540-01-.08, a student must:

(Rule 0540-03-.08, continued)

- (a) Satisfactorily complete the Board approved electrology school's course of study and shall pass a final examination on each subject; and
- (b) Satisfactorily complete all the general education course work.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-111, 63-26-112, 63-26-113, and 63-26-119.

Administrative History: Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.09 RENEWAL OF LICENSE.

- (1) Renewal Application
 - (a) The due date for license renewal is the expiration date indicated on the school's renewal certificate.
 - (b) Methods of Renewal
 - 1. Internet Renewals - Schools may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - 2. Paper Renewals - For schools who have not renewed their license online via the Internet, a renewal application form will be mailed to each school licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the school from the responsibility of meeting all requirements for renewal.
 - (c) To be eligible for renewal, the following must be submitted to the Division of Health Related Boards on or before the expiration date:
 - 1. A completed and signed renewal application form; and
 - 2. The renewal and State regulatory fees as provided in Rule 0540-03-.06.
 - (d) Anyone submitting a signed renewal form or letter on behalf of the school which is found to be untrue may be subject to disciplinary action as provided in Rule 0540-03-.15.
 - (e) Schools who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-01-.10.
- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired as a result of failure to timely renew in accordance with rule 1200-10-01-.10 may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal and state regulatory fees; and
 - (b) Payment of the late renewal fee provided in Rule 0540-03-.06.
- (3) Renewal and reinstatement decisions pursuant to this rule may be made administratively or upon review by any Board member or the Board's designee.

(Rule 0540-03-.09, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-26-108, 63-26-109, 63-26-119, 63-26-120, and 63-26-121. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 28, 2002; effective January 11, 2003.

0540-03-.10 SUPERVISION.

- (1) Every student in a school of electrology shall at all times be under the daily, personal and direct supervision of a licensed electrology instructor and at no time shall any electrology student be permitted to engage in the treatment of patients unless under the visual observation or supervision of a licensed electrology instructor.
- (2) Every student in a limited license training program shall at all times be under the personal supervision of a board certified or board eligible dermatologist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-111, and 63-26-119. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.11 RETIREMENT AND REACTIVATION.

- (1) A person who holds a current license and does not intend to operate a school of electrology in Tennessee may apply to convert an active license to retired status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license to operate a school of electrology may apply for retired status in the following manner:
 - (a) Obtain from the Board's administrative office an affidavit of retirement form; or
 - (b) Submit a letter, which has been signed and notarized, requesting that his license be placed in retirement. Such letter must contain a statement indicating that the licensee understands that he cannot operate a school of electrology in Tennessee while in retired status, indicate or imply in any way that he holds an active Tennessee license, or use within Tennessee any words, letters, titles, or figures which indicate or imply that he is currently licensed to operate a school of electrology, and
 - (c) Submit any documentation which may be required to the Board's administrative office.
- (3) The effective date of retirement will be the date the Affidavit of Retirement is received in the Board's administrative office.
- (4) An individual whose license to operate a school of electrology has been retired may reactive the license in the following manner:
 - (a) Submit a written request for licensure reactivation to the Board's administrative office; and
 - (b) Pay the current license renewal fees and State regulatory fee as provided in Rule 0540-03-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the Board will require payment of the late renewal fee and all past due renewal fees as prescribed in Rule 0540-03-.06.
- (5) Licensure reactivation applications shall be treated as licensure applications and review and decisions required by this Rule shall be governed by Rule 0540-03-.07.

(Rule 0540-03-.11, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-111, 63-26-108, 63-26-119, and 63-26-121. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.12 RESERVED.

0540-03-.13 STANDARDS OF PRACTICE. Acceptable standards of practice and operation of a School of Electrology shall include but not be limited to the following:

- (1) Each school shall display, in a conspicuous place within the clinical area of the school, a sign which shall read: "All services in this school are performed by students who are in training as electrologists."
- (2) No school of electrology shall pay compensation to any of its students, either directly or indirectly.
- (3) No school premises shall be used for the private practice of electrolysis.
- (4) No school shall directly or indirectly, accept any remuneration or make any charge for services rendered by its students at said school for practical work but a school may make reasonable, nominal charges to cover expenses of equipment and material used.
- (5) Every school shall maintain regular class hours with a daily schedule.
- (6) The program director, instructors and students shall at all times abide by the Professional Ethics as defined in Rule 0540-01-.13.
- (7) Services provided by a student shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules, and local codes and ordinances.
- (8) The program director and instructors shall at all times ensure that each student is taking adequate and necessary precautions to protect the public from health and safety hazards when performing services.
- (9) A school's management and staff shall at all times comply with T.C.A. §§62-26-101, *et seq.*
- (10) A school shall not discriminate in the acceptance of students upon the basis of race, color, religion, sex, or national origin.
- (11) No student may provide services to the public if the licensee has a known infectious or contagious disease unless the licensee takes appropriate precautions and uses safeguards which prevent the spread of the disease to patrons.
- (12) A school's management and staff shall not furnish false, misleading, or incomplete information to the Board or its designee.
- (13) Every school shall provide and maintain adequate and necessary modem equipment.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-223, 63-26-102, 63-26-105, 63-26-106, 63-26-119, and 63-26-124. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.14 RESERVED.

0540-03-.15 DISCIPLINARY ACTIONS AND CIVIL PENALTIES. The purpose of this rule is to define disciplinary actions that the Board may impose on licensees.

- (1) Upon a finding by the Board that a school of electrology has violated any provision of the Tennessee Electrologists Practice Act (T.C.A. §§63-26-101, *et. seq.*) or the rules promulgated thereto, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense:
 - (a) Advisory Censure - This is a written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Formal censure or reprimand - This is a written action issued to a licensee for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a licensee on close scrutiny for a period of time determined by the Board. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the licensee's activities during the probationary period.
 - (d) Licensure Suspension - This is a formal disciplinary action which suspends an licensee's right to operate a school of electrology for a fixed period of time. It contemplates the reentry of the licensee into the operation under the licensure previously issued. When the Board suspends a license, the school may not train electrology students during the period of suspension.
 - (e) Revocation for cause. This is the most severe form of disciplinary action which removes a licensee from the operation of a school of electrology and terminates the licensure previously issued. The Board, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the Board's revocation order.
 - (f) Conditions - These include any action deemed appropriate by the Board to be required of an individual disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license.
 - (g) Civil penalty – A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.
- (2) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed operation of an electrology school civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
 - (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

(Rule 0540-03-.15, continued)

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently

(Rule 0540-03-.15, continued)

proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

- 1. An order issued reflecting that compliance; or
- 2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
- 3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20_____.

Petitioner's Signature

- (4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed operation of an electrology school civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions

(Rule 0540-03-.15, continued)

of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
 1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a

(Rule 0540-03-.15, continued)

declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order Modification
Board of Electrolysis Examiners

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20_____.

Petitioner's Signature

(5) Civil Penalties

(a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. §63-1-134.

(b) Schedule of Civil Penalties

(Rule 0540-03-.15, continued)

1. A Type A civil penalty may be imposed whenever the Board finds the person who is required to be licensed by the Board is guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, a Type A penalty shall include, but not be limited to, a person who willfully and knowingly is or was operating an electrology school without a license from the Board.
2. A Type B civil penalty may be imposed whenever the Board finds the person required to be licensed by the Board is guilty of a violation of the Veterinary Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of clients or the public.
3. A Type C civil penalty may be imposed whenever the Board finds the person required to be licensed by the Board is guilty of a violation of the Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to clients or the public, nor directly impact their care, but have only an indirect relationship to client care or the public.

(c) Amount of Civil Penalties

1. Type A civil penalties shall be assessed in the amount of not less than \$500 nor more than \$1,000.
2. Type B civil penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C civil penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;

(Rule 0540-03-.15, continued)

- (iv) The economic benefits gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.
- (6) Informal Settlements - The Board consultant is authorized to enter into informal settlement agreements pursuant to Rule 0540-01-.19 under which a complaint against a licensee may be closed without any disciplinary action. Any matter proposed for informal settlement must be subsequently ratified by the full board before it will become effective. Such agreement may include any terms deemed appropriate by the Board consultant including, but not limited to:
- (a) Mandatory education program or course attendance;
 - (b) Submission of reports, records or other appropriate documentation; or
 - (c) Conditioning of the individual's activities in any manner which affects his operation of a school of electrology in Tennessee.

Authority: T.C.A. §§4-5-101, 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-122, 63-1-134, 63-26-108, 63-26-119, 63-26-121, and 63-26-123. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 28, 2002; effective January 11, 2003. Amendment filed November 4, 2005; effective January 18, 2006.

0540-03-.16 LICENSE.

- (1) Issuance - Upon the Board determining that an applicant for licensure has successfully met all the requirements as set forth in T.C.A. §§63-12-101, *et seq.* and these rules, the Board shall issue the school a license.
- (2) Display of License - The Board shall furnish a license to each school which shall be posted in a conspicuous place within the school.
- (3) Replacement License. The Board will replace a lost, damaged, or destroyed license (artistically designed "wall" license) or renewal certificate upon receipt of an affidavit detailing the loss or destruction of the original license or renewal certificate. The affidavit must be accompanied by the damaged license or renewal certificate, if available, and the appropriate fee, pursuant to Rule 0540-03-.06.
- (4) Display of Board Law and Rules and Regulations. Each licensee shall routinely obtain a copy of the Board's laws and rules to be posted in a conspicuous place within the school of electrology.
- (5) Requests for Verification of Licensure must be made in writing to the Board's administrative office.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-104, 63-1-105, 63-1-106, 63-1-109, 63-26-108, 63-26-109, 63-26-118, and 63-26-119. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.17 CHANGE OF NAME AND/OR ADDRESS.

(Rule 0540-03-.16, continued)

- (1) Change of Name. The school's program director shall notify the Board in writing within 30 days of a name change. The notice shall provide both the old and new names and must reference the license number, along with a certified or notarized photocopy of the document authorizing such a name change.
- (2) Change of Address. The school's program director shall notify the Board in writing within 30 days of a change of address. The notice shall provide both the old and new addresses and must reference the school's name, telephone number, and license number.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-26-108, and 63-26-119. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.18 RESERVED.

0540-03-.19 ADVERTISING.

- (1) A school of electrology shall display a sign designating it as a school and giving the name of the school.
- (2) A school of electrology shall be identified in advertisements, brochures, and promotional material by the name indicated on the license. All advertisements, brochures, or promotional materials printed by or caused to be printed shall include the license number of the school.
- (3) A school of electrology shall not use false, confusing, or misleading statements in its advertising.

Authority: T.C.A. §§4-5-202, 4-5-203, 4-5-204, 63-1-116, 63-26-108, and 63-26-119. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0540-03-.20 LIMITED LICENSURE ELECTROLOGY TRAINING PROGRAMS.

- (1) A person wishing to provide limited licensure electrology training must:
 - (a) Be a board certified or board eligible dermatologist who has submitted evidence to this board's satisfaction that he has completed continuing education in electrology theory and practice; and
 - (b) Ensure that the trainee has completed and mailed to the Board's administrative office the Notification of Training form at least ten (10) days prior to beginning the training. The notification of training form must be completed in its entirety and be signed by the supervising dermatologist indicating that he will personally provide daily instruction and direct supervision to each trainee during the training period.
- (2) Curriculum - The curriculum shall consist of at least 600 hours of electrology theory and clinical practice.
- (3) Training Period
 - (a) Training shall not begin until the Notification of Training has been submitted to the board's administrative office. Written verification of receipt will be provided to the trainee by the Board's administrative office within five (5) working days after receipt.
 - (b) No trainee shall be permitted to spend time in training in excess of five (5) days per week and six (6) hours per day.

(Rule 0540-03-.20, continued)

- (c) All trainees shall have completed the training program within twelve (12) months from the date started.
- (4) Supervision - During the training period, the dermatologist must personally provide direct supervision as defined in Rule 0540-03-.01(12).
- (5) Completion or Abandonment of Training
 - (a) Upon the trainee's completion of the training program, the dermatologist must provide to the Board's administrative office, concurrently with the trainee filing an application for license, verification that the training has been satisfactorily completed, along with a course outline, and an outline of training hours including specific theory topics and clinical practice.
 - (b) The dermatologist must provide an affidavit stating the number of training hours including specific theory topics and clinical practice to the Board of Electrolysis Examiners.
 - (c) The dermatologist must notify the Board's administrative office in writing, within ten (10) days of the date he terminates or the trainee terminates training prior to completion.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-26-108, 63-26-111, and 63-26-119. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.