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Sequence Number: 03-08-17
Rule ID(s): 6459-6460
File Date: 3/9/17
Effective Date: 6/7/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

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: Tennessee Board of Cosmetology and Barber Examiners
Division: Regulatory Boards
Contact Person: Cherrelle Hooper, Assistant General Counsel
Address: 500 James Robertson Parkway, Nashville, TN
Zip: 37243
Phone: 615-741-3072
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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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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 |
|----------------|---------------|
| 0440-01 | Licensing |
| Rule Number | Rule Title |
| 0440-01-.13 | Fees |

| Chapter Number | Chapter Title |
|----------------|---------------------------|
| 0200-01 | Rules of the Barber Board |
| Rule Number | Rule Title |
| 0200-01-.11 | Fees |

Chapter 0440-01

Licensing

Amendments

Rule 0440-01-.13 Fees is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

(1) Application/examination

- (a) A candidate shall schedule the test needed for a specific license (cosmetologist, manicurist, instructor, aesthetician, shampoo technician, or natural hair stylist) with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency.
- (b) The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

(2) Original License

- (a) Cosmetologist.....sixty dollars (\$60.00)
- (b) Manicurist.....sixty dollars (\$60.00)
- (c) Instructor.....eighty dollars (\$80.00)
- (d) Aesthetician.....sixty dollars (\$60.00)
- (e) Shampoo Technician.....sixty dollars (\$60.00)
- (f) Natural Hair Stylist.....sixty dollars (\$60.00)

(3) Renewal

- (a) Cosmetologist.....sixty dollars (\$60.00)
- (b) Manicurist.....sixty dollars (\$60.00)
- (c) Instructor.....seventy dollars (\$70.00)
- (d) Aesthetician.....sixty dollars (\$60.00)
- (e) Shampoo Technician.....sixty dollars (\$60.00)
- (f) Natural Hair Stylist.....sixty dollars (\$60.00)

(4) Penalty for late renewal

- (a) Cosmetologist, manicurist, instructor, aesthetician, shampoo technician, and natural hair stylist.....twenty-five dollars (\$25.00)

(5) Cosmetology, manicure, skin care, natural hair stylist or manicure/skin care shops

- (a) Inspection (new shop, relocated shop, shop with change of ownership)
.....fifty dollars (\$50.00)
- (b) License
new shop.....one hundred dollars (\$100.00)
relocated shop.....one hundred dollars (\$100.00)
change of ownership.....one hundred dollars (\$100.00)
- (c) Renewal.....seventy five dollars (\$75.00)
- (d) Penalty for late renewal.....fifty dollars (\$50.00)

- (e) Change of name only.....ten dollars (\$10.00)
- (f) Change of ownership due to death of immediate family, no charge, with a copy of the death certificate or obituary.
- (g) New Dual shop licenseone hundred and fifty dollars (\$150.00)
- (h) Dual shop license renewal.....one hundred dollars (\$100.00)
- (i) Dual shop penalty for late renewal.....fifty dollars (\$50.00) per year
- (6) School
 - (a) Application/license (new school)three hundred and fifty dollars (\$350.00)
 - (b) License for relocated or change of ownership for a school
.....one hundred and seventy-five dollars (\$175.00)
 - (c) Penalty for late monthly report from schools of hours attended by students
.....twenty-five dollars (\$25.00)
 - (d) Annual school renewal.....one hundred and fifty dollars (\$150.00)
- (7) Replacement or correction of license
 - (a) Lost, misplaced or mutilated license.....twenty-five dollars (\$25.00)
 - (b) Change of name by any cosmetologist, aesthetician, manicurist, instructor, shampoo technician, natural hair stylist or shampoo/manicurist....ten dollars (\$10.00)
 - (c) Certification for licenseefifty dollars (\$50.00)
 - 1. Fee should be sent with:
 - (i) written request for certification
 - (ii) I.D. number
 - (d) Student certification of hours.....twenty-five dollars (\$25.00)
 - 1. Fee should be sent with:
 - (i) certification request form
 - (ii) completion/withdrawal form (unless previously submitted)
- (8) Surcharge to issue manicurist license to former shampoo/manicurist as in Tenn. Code Ann. § 62-4-131(c).....twenty-five dollars (\$25.00)
- (9) Reciprocity.....one hundred dollars (\$100.00)

The fee for application through reciprocity must be received along with the applicant's initial application documents. Any reciprocity application received without this fee shall be incomplete and will not be considered.
- (10) Retiring a license.....fifty dollars (\$50.00)
- (11) In the event that any check, draft or order for the payment of a fee to the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified check or money order will be accepted for the amount due, plus twenty dollars (\$20.00) additional fee.
- (12) Applications for licensure of a salon are valid for ninety (90) days after approval by the Board. Failure to obtain an approved inspection for operation within the ninety (90) days shall invalidate the application and require a new application and fee.

Chapter 0200-01
Rules of the Barber Board

Amendments

Rule 0200-01-.11 Fees is amended by deleting the rule in its entirety and substituting the following language so that as amended, the rule shall read:

(1) The Board shall charge and collect the following fees and penalties:

(a) Master Barbers

1. A candidate shall schedule an examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.
2. Certificate of registration.....sixty dollars (\$60.00)
3. Renewal.....sixty dollars (\$60.00)
4. Penalty for late renewal up until one (1) year of expiration.....sixty dollars (\$60.00).
5. Reinstatement of certificate of registration if more than one (1) year but less than three (3) years, a fee as set forth in T.C.A. § 62-3-129(c)(1).
6. For the reinstatement of a certificate of registration for a master barber license which has been expired for more than three (3) years, a new application for examination and the examination fee shall be submitted. If successful, the applicant shall pay the specified license fee. The examination shall consist of a practical examination before the board. Such applicant shall not be required to meet the qualifications for a certificate of registration established in T.C.A. § 62-3-110(b)(2) and (3).
7. Change of name.....ten dollars (\$10.00)
8. Retirement of licensefifty dollars (\$50.00)

(b) Technicians

1. A candidate shall schedule an examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.
2. Certificate of registrationsixty dollars (\$60.00)
3. Renewal.....sixty dollars (\$60.00)
4. Penalty for late renewal up until one (1) year of expiration.....sixty dollars (\$60.00).

5. For reinstatement of a certificate of registration over one (1) year after its expiration, a new examination application shall be submitted. If successful, the applicant shall pay the specified license fee. The examination shall consist of a practical and law examination. Such applicant shall not be required to meet the qualifications for a certificate of registration established in T.C.A. § 62-3-110(a).

6. Change of name.....ten dollars (\$10.00)

7. Retirement of licensefifty dollars (\$50.00)

(c) Barber Schools or Colleges

1. Certificate of registration.....three hundred and fifty dollars (\$350.00)

2. Renewal.....one hundred and fifty dollars (\$150.00)

3. Reinstatement of certificate of registration within one (1) year of expiration (includes penalty)one hundred and seventy five dollars (\$175.00)

4. Change of ownership and/or location.....one hundred and seventy five dollars (\$175.00)

5. Change of nameten dollars (\$10.00)

(d) Barber Instructors

1. A candidate shall schedule an examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

2. Certificate of registration.....eighty dollars (\$80.00)

3. Renewal.....seventy dollars (\$70.00)

4. Penalty for late renewal of certificate of registration within one (1) year of expiration seventy (\$70.00) dollars

5. Reinstatement of certificate of registration if more than one (1) year since expiration (includes penalty) a fee as set forth in T.C.A. § 62-3-129(c)(3).

6. Change of name.....ten dollars (\$10.00)

7. Retirement of licensefifty dollars (\$50.00)

(e) Barber Shops

1. To register a new barber shop or for change of ownership and/or location, the following fees are required:

(i) Inspection..... fifty dollars (\$50.00)

(ii) Certificate of registration.....one hundred dollars (\$100.00)

2. Renewal.....seventy-five dollars (\$75.00)

3. Penalty for late renewal up until one (1) year of expiration....seventy five (\$75.00) dollars.

4. Reinstatement of certification if registration is more than one (1) year since expiration (includes penalty) as set forth in T.C.A. § 62-3-129(c)(4).

Change of name.....ten dollars (\$10.00)

- (f) New Dual shop license one hundred and fifty dollars (\$150.00)
- (g) Dual shop license renewal.....one hundred dollars (\$100.00)
- (h) Dual shop penalty for late renewal.....fifty dollars (\$50.00) per year.
- (i) Certifications to other Jurisdictions
 - 1. License certification.....fifty dollars (\$50.00)
 - 2. Student certification of hours.....twenty five dollars (\$25.00)
- (j) Barber instructor assistant certificate of registration.....twenty-five dollars (\$25.00)
- (k) Reciprocity.....one hundred dollars (\$100.00)
- (l) In the event that any check, draft or money order for the payment of a fee to the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified checks or money orders will be accepted for the amount due, plus a penalty fee of twenty dollars (\$20.00).
- (m) Change of ownership in a barber school or shop due to the death of an immediate family member.....no charge.
Application must be accompanied by death certificate or notice.
- (n) Replacement of lost, misplaced or mutilated certificate of registration.....twenty five dollars (\$25.00).

Authority: T.C.A. §§ 62-3-113, 62-3-117, 62-3-122, 62-3-128 and 62-3-129

* 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) |
|-------------------|-----|----|---------|--------|----------------------------|
| Kelly Barger | X | | | | |
| Anita Charlton | X | | | | |
| Nina Coppinger | X | | | | |
| Bobby Finger | X | | | | |
| Frank Gambuzza | X | | | | |
| Brenda Graham | X | | | | |
| Judy McAllister | X | | | | |
| Patricia Richmond | X | | | | |
| Mona Sappenfield | X | | | | |
| Amy Tanksley | X | | | | |
| Ron Gillihan | | | | X | |
| Yvette Granger | | | | X | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Cosmetology and Barber Examiners on December 12, 2016, 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: (10-20-16)

Rulemaking Hearing(s) Conducted on: (add more dates). (12-12-16)

Date: 2/14/17

Signature: *Cherelle Hooper*

Name of Officer: Cherelle Hooper

Title of Officer: Assistant General Counsel



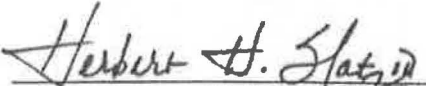
Subscribed and sworn to before me on: 2/14/17

Notary Public Signature: *Vanessa Huntsman*

My commission expires on: 11/21/2017

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.

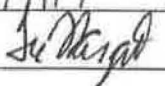
0440-01-.13 Fees
0200-01-.11 Fees


Herbert H. Slatery III
Attorney General and Reporter
2/24/2017
Date

Department of State Use Only

Filed with the Department of State on: 3/9/17

Effective on: 6/7/17


Tre Hargett
Secretary of State

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PUBLICATIONS

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 hearing comments on these rules.

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 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, or directly benefit from the proposed rule;

All professional licenses in this program will be impacted by the proposed rules. There are about 10,690 licensed shops whose fees will change. There are approximately 55,827 licensed cosmetologists and barbers whose fees for license renewal will change. There are approximately 105 licensed barber and cosmetology schools whose fees will change.

2. The 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 rules do not create any new schedules or deadlines for reporting compliance. No new profession type will be required to administer these new rules.

3. A statement of the probable effect on impacted small businesses and consumers;

The proposed rules will affect all licensed businesses and all licensed professionals in this program. Some licenses will cost significantly less while others are going to have small increases. The proposed rules will create uniform fees for licensees businesses regardless of whether they are licensed under the cosmetology or barber statute. Cosmetologists will be paying \$10 more than they are currently paying every two years to renew a license. Barbers will be paying \$20 less than they currently pay every two years to renew their license.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

The purpose of changing the fees was to allow the program to run on a realistic budget while self-sustaining. The fees are only raised a small amount so that each individual licensee will not feel a great financial burden. There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules.

5. A comparison of the proposed rule with any federal or state counterparts; and

There is no state or federal counterpart to the proposed rules.

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.

The overwhelming majority of businesses that are affected by these rules are small businesses. Therefore, allowing separate compliance requirements would not be feasible. These rules do not create any new schedules, deadlines, or reporting compliance. These rules were created to accommodate small businesses in Tennessee.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "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 impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on local governments by the promulgation of the proposed rules.

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).

0440-02-.13- Increases the fees for individual licenses, individual renewals, shop licenses, shop renewals, and reciprocity. Adds a fee for new dual shop licenses, dual shop license renewals, annual school renewals, and retiring a license.

0200-01-.11- Adds specific rules regarding candidates scheduling examinations and paying fees for master barber registration, master barber instructor registration and technician registration. Adds rules regarding reinstating a master barber registration or technician registration that has been expired for more than three years. Decreases registration fees, renewal fees, and penalty for late renewal fees for master barbers, technicians, barber instructors, barber schools and colleges. Adds a fee for retirement of a license, new dual shop license, and dual shop license renewal. Increases the fee for a lost, misplaced or mutilated certificate of registration.

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

(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;

There are no known other federal or state laws or rules requiring the promulgation of these rules.

(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;

The proposed rules will affect all licensees including individuals, shops and schools. None of these parties have taken a position to urge adoption or rejection of these rules in the form of public hearing comments or otherwise.

(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;

There are no known opinions of the attorney general and reporter or any judicial ruling that directly relate to the rule or the necessity to promulgate the rule.

(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;

The promulgation of these rules is expected to increase state government revenues by approximately \$326,715. This estimate is based upon an analysis by the accounting department for the Tennessee Department of Commerce and Insurance.

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

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

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

Cherrelle Hooper

SS-7039 (June 2016)

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RDA 1693

Assistant General Counsel

Roxana Gumucio
Executive Director

- (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

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

None

