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Sequence Number: 08-27-25
 Rule ID(s): 10375
 File Date: 8/15/2025
 Effective Date: 11/13/2025

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:	Board of Respiratory Care
Division:	
Contact Person:	Ashley Fine, Senior Associate Counsel Holt Whitt, Assistant Commissioner for Legislative Affairs
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Revision Type (check all that apply):

- Amendment
 New
 Repeal
- Content based on previous emergency rule filed on _____
 Content is identical to the emergency rule

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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1330-01	General Rules and Regulations Governing Respiratory Care Practitioners
Rule Number	Rule Title
1330-01-.07	Application Review, Approval, and Denial

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 1330-01
General Rules and Regulations Governing Respiratory Care Practitioners

Amendments

Rule 1330-01-.07 Application Review, Approval, and Denial is amended by deleting paragraph (3) in its entirety, including its subparagraphs, and substituting instead the following language, so that as amended, the new paragraph shall read:

- (3) If an application is incomplete when received in the Board office, a deficiency notification will be sent to the applicant notifying him of the deficiency. This notification shall request specified additional material necessary to complete the application. The requested information must be received in the Board office on or before the sixtieth (60th) day after receipt of the notification. If the requested information is not timely received, the application file shall be deemed abandoned and closed and the applicant notified. No further action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.

Authority: T.C.A. §§ 63-27-104, 63-27-105, and 63-27-116.

* 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)
Robert E. Farmer	X				
Jeffrey Craig Rooks	X				
Kira Anderson	X				
Gary Keith Lovelady, M.D.	X				
Ray A. Davis	X				
Curtis D. Powell	X				
Kimberly D. Christmon	X				
Delmar Mack, EdD	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Respiratory Care on 05/08/2025, 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: 01/30/2025

Rulemaking Hearing(s) Conducted on: (add more dates). 05/08/2025

Date: 05/23/2025

Signature: Ashley L. Fine

Name of Officer: Ashley L. Fine

Title of Officer: Senior Associate Counsel, Department of Health

Agency/Board/Commission: Board of Respiratory Care

Rule Chapter Number(s): 1330-01

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.

[Signature]
 Jonathan Skrmetti
 Attorney General and Reporter
August 5, 2025 Date

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RECEIVED

Aug 15 2025, 3:04 pm

Secretary of State
 Division of Publications

Filed with the Department of State on: 8/15/2025

Effective on: 11/13/2025

[Signature]
 Tre Hargett
 Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments, either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, 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 rules do not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

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

These rules are clear, concise, and unambiguous.

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

These rules do not contain reporting requirements.

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

These rules do not contain reporting requirements.

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

These rules 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 rules do not contain reporting requirements.

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

These rules do not create any unnecessary barriers and do not stifle entrepreneurial activity, curb innovation, or increase costs. The purpose of 2019 Public Chapter 323 seems to have been to remove a burden to licensure with the goal of making it easier to become licensed in Tennessee and to attract more practitioners to the State.

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."

This rule should not have any impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

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

The Board is amending this paragraph to enlarge the methods of providing notice to applicants regarding application deficiencies, which is consistent with the language in some other health related boards. Specifically, this amendment removes the certified mail requirement for license application deficiency letters so that applicants may be notified by email when the applicant selects email as his or her chosen method of contact.

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;

T.C.A. § 63-27-104 contains the Board's authority for rulemaking, T.C.A. §§ 63-27-105 and 63-27-116 contain licensure requirements that must be substantiated in the application process.

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;

Applicants and licensees will be impacted by this rule amendment.

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.

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;

This rule should not have any impact on government revenues or expenditures.

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

Ashley Fine, Senior Associate Counsel, Department of Health.

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

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

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, Nashville, TN 37243, 615-741-0948, Holt.Whitt@tn.gov.

Any additional information relevant to the rule proposed for continuation that the committee requests;

None.

**RULES
OF
THE TENNESSEE BOARD OF RESPIRATORY CARE
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1330-01
GENERAL RULES AND REGULATIONS GOVERNING
RESPIRATORY CARE PRACTITIONERS**

AMENDMENTS

1330-01-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Application files are not considered completed until all information, including fees, have been received by the Division. Preliminary review of all applications to determine whether or not the application file is complete may be delegated to the Board's Unit Director.
- (2) Completed applications may be approved by a Board member, by the Board consultant, or by the Board designee for a temporary authorization pursuant to T.C.A. §§ 63-1-142 and 63-27-116.
- (3) ~~If an application is incomplete when received in the Board office, a deficiency notification will be sent to the applicant notifying him of the deficiency. This notification shall request specified additional material necessary to complete the application. The requested information must be received in the Board office on or before the sixtieth (60th) day after receipt of the notification. If the requested information is not timely received, the application file shall be deemed abandoned and closed and the applicant notified. No further action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees. If an application is incomplete when received in the Board office, and all other reasonable efforts to correct any deficiency have failed, a deficiency letter will be sent by certified mail to the applicant notifying him of the deficiency. This letter shall request specified additional material necessary to complete the application. The requested information must be received in the Board office on or before the sixtieth (60th) day after receipt of the notification.~~
 - ~~(a) — Such notification shall be sent certified mail return receipt requested from the Board office.~~
 - ~~(b) — If the requested information is not timely received, the application file shall be deemed abandoned and closed and the applicant notified. No further action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.~~
- (4) If a completed application has been denied 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 office by certified mail, return receipt requested. Specific reasons for denial will be stated, such as incomplete or unofficial records, examination failure, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or administrative 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. §§ 4-5-301, et seq.). The notification shall inform the applicant of the procedure necessary to accomplish that action.

- (c) An applicant has a right to a contested case hearing only if the licensure denial is based on subjective or discretionary criteria.
 - (d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if, after review and attempted resolution by the Board's administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the Board within thirty (30) days of the receipt of the notice of denial from the Board.
- (5) 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 revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 1330-01-.07(4).
- (6) Applications submitted for one type of license, temporary license or permit cannot be converted after filing to an application for another type of license, temporary license or permit. If an applicant desires to convert, a new application with supporting documents and appropriate fees must be submitted.
- (7) The issuance or renewal of licensure to applicants who otherwise may be entitled to full licensure or renewal, may be withheld, denied, conditioned or restricted in any manner the Board deems necessary to protect the public in any of the following circumstances:
- (a) When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.
 - (b) When any applicant has violated any provision of T.C.A. §§ 63-27-101, et seq., or rules promulgated pursuant thereto.
 - (c) When any applicant fails to fully and timely comply with all licensure application and renewal requirements.

| Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 4-5-301~~, 63-1-142, 63-27-104, 63-27-105, ~~63-27-109, 63-27-112~~, and 63-27-116.