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Sequence Number: 03-21-24  
 Rule ID(s): 10067  
 File Date: 3/26/2024  
 Effective Date: 6/24/2024

# 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).*

<b>Agency/Board/Commission:</b>	Board of Optometry
<b>Division:</b>	
<b>Contact Person:</b>	Eric Winters, 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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1045-02	General Rules Governing the Practice of Optometry
Rule Number	Rule Title
1045-02-.01	Fees

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 1045-02  
General Rules Governing the Practice of Optometry

Amendments

Rule 1045-02-.01 Fees is amended by deleting subparagraph (1)(a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- |     |     |  |          |
|-----|-----|--|----------|
| (1) | (a) | Application Fee - A non-refundable fee to be paid each time an application for initial licensure is filed. | \$150.00 |
|-----|-----|--|----------|

Authority: T.C.A. §§ 63-8-112, 63-8-115, and 63-8-119.

\* 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)
James Venable, O.D.	X				
Linda Tharp, O.D.	X				
Kurt Steele, O.D.	X				
Zachary McCarty, O.D.		X			
Kenneth Young, O.D.	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Optometry on 01/10/2024, 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: 10/06/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 01/10/2024

Date: January 11, 2024

Signature: 

Name of Officer: Eric Winters

Title of Officer: Senior Associate Counsel, Department of Health

Agency/Board/Commission: Board of Optometry

Rule Chapter Number(s): 1045-02

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.

  
Jonathan Skrmetti  
Attorney General and Reporter

Mar. 27, 2024  
Date

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Mar 26 2024, 1:32 pm

Secretary of State  
Division of Publications

Filed with the Department of State on: 3/26/2024

Effective on: 6/24/2024

  
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.**

The rules do not conflict with other federal, state, or local government rules.

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

These rule amendments lack ambiguity, establish clarity and conciseness.

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

These rule amendments do not establish any reporting requirements for small businesses.

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

There are no such requirements contained in the rule amendments.

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

There are no such requirements contained in the rule amendments.

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

These rule amendments do not establish any standards that apply to small businesses.

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

These rule amendments create no entry barriers or other effects that would stifle legitimate entrepreneurial activity, curb innovation, or increase costs for legitimate businesses. To the contrary, these rule amendments lower the costs barrier for applicants and license renewals.

## **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."

The proposed rule amendments should not have a financial 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 Rule 1045-02-.01 to decrease application fees from two hundred fifty dollars (\$250.00) to one hundred fifty dollars (\$150.00).

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 is no federal or state law or regulation mandating promulgation of the rule.

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;

Initial licensees are the only individuals who will be affected by this rule amendment and they would likely urge adoption.

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 opinions of the attorney general or judicial rulings that directly related to the rule.

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 fee decrease is being instituted to lower the Board of Optometry's budgetary carryover. However, the estimated decrease to state revenues will be approximately six thousand eight hundred dollars (\$6,800.00) per year based on fiscal year 2023.

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

Eric Winters, 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;

Eric Winters, 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, 2<sup>nd</sup> Floor, Nashville, TN 37243, 615-741-1611, [Eric.Winters@tn.gov](mailto:Eric.Winters@tn.gov) 710 James Robertson Parkway, Nashville, TN 37243, (615) 741-0948, [Holt.Whitt@tn.gov](mailto:Holt.Whitt@tn.gov)

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

None.

1045-02-.01 FEES

- (1) The fees authorized by the Optometry Practice Act (T.C.A. §§ 63-8-101, et seq.) and other applicable statutes to be established in amount by the Board are established as follows:
- |     |  |                                       |
|-----|--|---------------------------------------|
| (a) | Application Fee - A non-refundable fee to be paid each time an application for initial licensure is filed.   | <del>\$150.00</del> <del>250.00</del> |
| (b) | Reinstatement Fee - A non-refundable fee to be paid each time an application for reinstating an expired license is filed.  | \$200.00                              |
| (c) | Duplicate Licensure  | \$25.00                               |
| (d) | Licensure Renewal Fee - A non-refundable fee to be paid biennially by all licensees except Inactive Volunteers. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license. | \$275.00                              |
| (e) | Biennial State Regulatory Fee  | \$10.00                               |
| (f) | Inactive Volunteer Licensure Renewal Fee   | \$0.00                                |
- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Optometry.

Authority: T.C.A. §§ ~~4-3-1011(b), 4-5-202, 4-5-204, 9-4-5117, 63-8-111,~~ 63-8-112, ~~63-8-112(1),~~ 63-8-115, ~~and 63-8-119, 63-8-128, and 63-8-133.~~