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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Board of Court Reporting
Division:	Department of Commerce and Insurance
Contact Person:	Ashley N. Thomas, Assistant General Counsel
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway Davy Crockett Tower 500 James Robertson Parkway, 8 th Floor Nashville, TN 37243
Phone:	615-741-0481
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	
Address 2:	
City:	
Zip:	
Hearing Date :	mm/dd/yy
Hearing Time:	___ CST/CDT ___ EST/EDT

Additional Hearing Information:

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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. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0455-01	Tennessee Board of Court Reporting
Rule Number	Rule Title

0455-01-01-.04	Use of Forms
0455-01-01-.05	Maintenance and Inspection of Board Records
0455-01-02-.03	Verification of Tennessee License
0455-01-02-.04	Fees
0455-01-03-.01	Licensure by Grandfathering – Work Experience
0455-01-03-.05	Temporary License
0455-01-03-.07	Renewal
0455-01-04-.01	Standards of Professional Conduct
0455-01-05-.04	Investigation
0455-01-05-.05	Board Action Following Investigation
0455-01-05-.07	Formal Disposition of Contested Cases
0455-01-05-.08	Informal Disposition of Contested Cases
0455-01-05-.09	Decisions of the Board
0455-01-05-.10	Application Following Denial of Licensure
0455-01-05-.11	Reinstatement of a Revoked License
0455-01-06-.01	Continuing Education Requirements
0455-01-06-.03	Continuing Education Sponsors and Programs
0455-01-06-.05	Non-Compliance With Continuing Education Requirement
0455-01-06-.06	Waiver of CE Requirements

Rule 0455-01-01-.04 is amended to read as follows:

0455-01-01-.04 USE OF FORMS.

Applications and forms shall be made on the prescribed forms approved by the Board. Copies of instructions and forms are available from the ~~Administrative Office of the Courts~~ Board of Court Reporting.

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609, 20-9-610, 20-9-613 and 20-9-614.

Rule 0455-01-01-.05 is amended by amending paragraphs (3) and (4) and deleting paragraph (5) so as to read as follows:

0455-01-01-.05 MAINTENANCE AND INSPECTION OF BOARD RECORDS.

(1) The Board shall maintain its records in Accordance with the Tennessee Public Records law, T.C.A Title 10, Chapter 7.

(2) Public records maintained by the Board shall be subject to public disclosure pursuant to the Tennessee Public Meetings law, T.C.A. Title 8, Chapter 44 and the Tennessee Public Records law, T.C.A. Title 10, Chapter 7.

(3) Upon request to the Director ~~of the Administrative Office of the Courts~~, public records maintained by the Board shall be available for inspection and duplication at the ~~Administrative Office of the Courts~~ Board of Court Reporting during regular business hours. The inspection and duplication of public records shall be under the supervision of the Executive Director of the ~~Administrative Office of the Courts~~ Board of Court Reporting or his/her designee.

(4) Any person wishing to obtain copies of public records shall submit a written request to the ~~Administrative Office of the Courts~~ Board of Court Reporting. Copies will be supplied upon payment of costs based on the most current version of the Schedule of Reasonable Charges issued by the Office of Open Records Counsel, ~~applicable under the Schedule of Reasonable Costs for Public Records published by the Administrative Office of the Courts~~.

~~(5) Public records maintained by the Board that are available for inspection and duplication include, but are not limited to:~~

~~(a) Names and business addresses of current licensees;~~

~~(b) Names of persons whose licenses have been suspended, revoked or subject to some other public discipline, including the type of license, date, infraction, the penalty incurred and the length of the penalty imposed;~~

~~(c) Rules and regulations of the Board as promulgated and published in accordance with the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.~~

~~(d) Other written statements of policy or interpretations formulated, adopted or used by the Board in the discharge of its duties and functions; and~~

~~(e) Final orders, decisions, declaratory rulings and opinions issued by the Board.~~

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

Rule 0455-01-02-.03 is amended by amending paragraph (1) and deleting paragraph (2) so as to read as follows:

0455-01-02-.03 VERIFICATION OF TENNESSEE LICENSE.

~~(1) Verification of licensure will be available on~~ through the Board's website, ~~to be maintained by the Administrative Office of the Courts~~.

~~(2) Upon receipt of a written request, the Director of the Administrative Office of the Courts, or his/her designee, shall provide written verification of Tennessee licensure.~~

Authority: T.C.A. §§ 20-9-604, 20-9-605 and 20-9-607.

Rule 0455-01-02-.04 is amended by amending paragraph (6), and deleting paragraph (7), so as to read as follows:

0455-01-02-.04 FEES.

(1) Fees and civil penalties are not refundable.

(2) Fees are payable by certified check, cashier's check, corporate or business check, money order, personal check or electronic means.

- (a) Counter checks are not an acceptable method of payment. Personal checks shall be imprinted with the name, address and account number of the applicant or licensee.
- (b) Personal checks by third parties are not acceptable.
- (c) Applicants or licensees who submit personal checks returned due to insufficient funds may be prohibited from paying any future fees or civil penalties by personal check.
- (d) Statutory charges for returned checks shall be paid by the applicant or licensee, along with any penalties and fees authorized pursuant to T.C.A Title 47, Chapter 29.
- (3) Civil penalties are payable by certified check, cashier's check, corporate or business check, money order or electronic means.
- (4) Payment, regardless of method, that is not honored by the financial institution may result in disciplinary action and/or reporting to the appropriate legal authorities for possible prosecution.
- (5) A license may not be issued until funds are received by the Board.
- (6) Standard Fee Schedule Amount
 - (a) License Fee.....\$200
 - (b) Application Fee.....\$50
 - (c) Renewal Fee.....\$200
 - (d) Late Renewal Fee.....~~10% of License Fee for each late month~~ **\$20 per month up to six (6) months or portion thereof**
 - (e) Temporary License Fee.....\$50
 - (f) Temporary License Renewal Fee.....\$50
 - (g) Reinstatement Fee.....~~\$500~~ **\$350**
- ~~(7) The Board will prorate license fees for any license that is issued for a period of less than twenty-four (24) months, pursuant to T.C.A. § 20-9-611.~~

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-610, 20-9-611, 20-9-612, ~~20-9-613~~ and 20-9-614.

Rule 0455-01-03-.01 is amended by deleting the text of the rule in its entirety and substituting instead the following so the rule, as amended, shall read:

0455-01-03-.01 TEMPORARY LICENSURE.

Any person who provides to the board satisfactory proof of graduation from a court reporting program or its equivalent shall, upon application to the board on forms approved by the board and payment of a fee in an amount determined by the board, be issued a temporary license to practice as a court reporter. This temporary license shall expire sixty (60) days following the date upon which the next board-approved examination for licensure is given. ~~No more than three (3) additional temporary licenses shall be issued to any applicant who fails to pass the scheduled examination for licensure.~~ **Up to three (3) additional temporary licenses will be granted upon sufficient proof of good cause for issuance.**

~~(2) "Court reporting program" shall mean those educational programs, approved by the Tennessee Board of Court Reporting, that provide education related to court reporting as defined in T.C.A. § 20-9-602(2).~~

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609, 20-9-612 and 20-9-614

~~0455-01-03-.01 LICENSURE BY GRANDFATHERING—WORK EXPERIENCE.~~

~~(1) Any person who is engaged in the practice of court reporting on January 1, 2010 may apply for licensure by grandfathering. The application for grandfathering will require evidence that the court reporter is proficient in court reporting. Applications for grandfathering by work experience must be received by July 1, 2011. The application shall include:~~

- ~~(a) An affidavit setting forth past education and work experience as a court reporter;~~
- ~~(b) and an affidavit of either:~~

- ~~1. A judge for whom the person has worked as an official court reporter, or,~~
- ~~2. Affidavits of three (3) licensed attorneys, unrelated by blood or marriage to the person, and who have utilized the services of the court reporter, which attest to the court reporter's proficiency in court reporting, or,~~
- ~~3. Affidavits of two (2) licensed attorneys and one (1) court reporting firm owner, unrelated by blood or marriage to the person, and who have utilized the services of the court reporter or the affidavit of the court reporting firm owner may state that the applicant has engaged in the practice of court reporting, which attest to the court reporter's proficiency in court reporting, and;~~

~~(c) Payment of licensure fee.~~

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-613.

Rule 0455-01-03-.02 is amended by deleting the text of the rule in its entirety and substituting instead the following so the rule, as amended, shall read:

0455-01-03-.02~~6~~ APPLICATION FOR LICENSURE – STANDARD PROCESS.

- (1) Any person may submit an application to be licensed as a court reporter. The application shall include:
 - (a) Proof of passage of the National Court Reporters Association registered professional reporter examination, the National Verbatim Reporters Association certified verbatim reporter examination, or the American Association of Electronic Reporters and Transcribers certified electronic court reporter examination.
 - (b) Applications for licensure shall be signed and sworn by the applicants and submitted on forms furnished by the board.
 - (c) Payment of licensure fee.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-609.

~~0455-01-03-.02 LICENSURE BY GRANDFATHERING – PRIOR EXAMINATION PASSAGE.~~

~~Any person who is engaged in the practice of court reporting on January 1, 2010, upon payment of the licensure fee in an amount determined by the Board, and provides proof of passage of the National Court Reporters Association Registered Professional Reporter (RPR) examination, the National Verbatim Reporters Association Certified Verbatim Reporter (CVR) examination, or the American Association of Electronic Reporters and Transcribers Certified Electronic Court Reporter (CECR) examination shall be granted a license pursuant to this part.~~

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-613

Rule 0455-01-03-.03 is amended by deleting the text of the rule in its entirety and substituting instead the following so the rule, as amended, shall read:

0455-01-03-.03~~7~~ RENEWAL.

- (1) A newly issued court reporter license in Tennessee shall be valid for two (2) years or for other such period of time authorized by statute. The holder of the license may renew such license during the 60 days preceding the expiration date thereof by paying the required fee and completion of the application for renewal.

~~(2) A license renewal is valid for a period of two (2) years or other such period of time authorized by T.C.A. § 20-9-612.~~

- ~~(2~~3~~)~~ It is the responsibility of each licensee to notify the Board of any change of address within thirty (30) days. Failure to receive a renewal form from the Board shall not constitute an excuse for failure to renew licensure.

~~(34) Late Rrenewals applications may be received following expiration of license with the required fees.late renewal fee and application for renewal. Failure to renew a license within 180 days shall deem the license suspended and subject to reinstatement, as defined in 0455-01-11.No late renewal will be granted if a completed application is not received by the Board within six (6) months of the expiration of the license. After six (6) months following the expiration of the license, the applicant must apply for a new license.~~

Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609, 20-9-611 and 20-9-612

~~0455-01-03-.03 LICENSURE BY GRANDFATHERING – FOREIGN STATE LICENSURE.~~

~~Any person who is engaged in the practice of court reporting on January 1, 2010, upon payment of the licensure fee in an amount determined by the Board, and provides proof of a court reporter license issued by any state; provided, that the state has the same or more stringent requirements of this chapter, shall~~

~~be granted a license pursuant to this part.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-613 and 20-9-614~~

Rule 0455-01-03-.04 is amended by deleting the text of the rule in its entirety and substituting instead the following so the rule, as amended, shall read:

~~0455-01-03-.04 LICENSURE BY GRANDFATHERING—TENNESSEE COURT REPORTERS ASSOCIATION CREDENTIAL.~~

~~(1) Any member in good standing of the Tennessee Court Reporters Association who holds the certified court reporter examination designation on July 1, 2009, upon payment of the licensure fee in an amount determined by the board, shall be automatically granted a license pursuant to this part and thereby may practice as a court reporter.~~

~~(2) Any member in good standing of the Tennessee Court Reporters Association who holds the certified court reporter designation on July 1, 2009, and does not apply for licensure within one (1) year of July 1, 2010, shall be required to pass the licensed court reporter examination and pay applicable licensure fees in order to become a licensed court reporter.~~

~~(3) Any member in good standing of the Tennessee Court Reporters Association who holds the registered professional reporter designation, or higher, from the NCRA, NVRA or AAERT on July 1, 2009, upon payment of the licensure fee in an amount determined by the board, shall be automatically granted a license pursuant to this part and thereby may practice as a court reporter.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-607, 20-9-609 and 20-9-613.~~

0455-01-03-.04 MILITARY APPLICANTS

(1) An applicant for certification, licensure, or registration meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:

(a) Be issued a certification, license, or registration upon application and payment of all fees required for the issuance of such certification, license or registration, if, in the opinion of the Board, the requirements for certification, licensure, or registration of such other state are substantially equivalent to that required in Tennessee; or

(b) Be issued a temporary permit as described herein if the Board determines that the applicant's certification, license, or registration does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including - but not limited to – education, training, or experience, in order to meet the requirements for the certification, license, or registration to be substantially equivalent. The Board may issue a temporary permit upon application and payment of all fees required for issuance of a regular certification, license, or registration of the same type which shall allow such person to perform services as if fully certified, licensed, or registered for a set period of time that is determined to be sufficient by the Board for the applicant to complete such requirements.

1. After completing those additional requirements and providing the Board with sufficient proof thereof as may be required, a full certification, license, or registration shall be issued to the applicant with an issuance date of the original issuance of the temporary permit and an expiration date as if the full certification, license, or registration had been issued at that time.

2. A temporary permit shall be issued for a period no longer than the length of a renewal cycle for a full certification, license, or registration of the same type.

3. A temporary permit shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the Board or by an extension of time granted for good cause by the Board.

4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full certification, license, or registration, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Board for all other renewals of a full certification, license, or registration of the same type.

(c) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any certification, license, or registration issued by the Board if such military education, training, or experience is determined by the Board to be substantially equivalent to the education, training, or experience required for the issuance of such certification, license or registration.

(2) Any certificate holder, licensee, or registrant who is a member of the National Guard or a reserve component of the armed forces of the United States called to active duty whose certification, license, or registration expires during the period of activation shall be eligible to be renewed upon the certificate holder, licensee, or registrant being released from active duty without:

(a) Payment of late fees or other penalties; or

(b) Obtaining continuing education credits when:

1. Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the Board; or

2. The person performs the certified, licensed, or registered occupation as part of such person's military duties and provides documentation sufficient to demonstrate such to Board.

(3) The certification, license or registration shall be eligible for renewal pursuant to Paragraph (2) for six (6) months from the person's release from active duty.

(4) Any person renewing under Paragraph (2) shall provide the Board such supporting documentation evidencing activation as may be required by the Board prior to the renewal of any certification, license, or registration license pursuant to Paragraph (2).

Authority: T.C.A. §§ 4-3-1304(d)(1); 20-9-605

Rule 0455-01-04-.01 is amended by amending paragraphs (1)(c), (1)(e), (1)(g), (1)(k), adding paragraph(1)(l) and renumbering paragraphs (1)(m-o), and amending paragraph (1)(p) so that the rule reads as follows:

0455-01-04-.01 STANDARDS OF PROFESSIONAL CONDUCT.

(1) In order to establish and maintain a high standard of integrity in the practice of court reporting, the following Standards of Professional Conduct shall be binding on every person holding a license, of any type, from the Board. A Tennessee licensed court reporter:

(a) Shall be fair and impartial toward each participant in all aspects of reported proceedings.

(b) Should only accept an assignment if his/her level of competence will result in the preparation of an accurate transcript and will remove the licensee from an assignment if they believe their abilities are inadequate, recommending or assigning another licensee only if such licensee has the competence required for such assignment.

(c) Shall provide information regarding services to be rendered regarding administration of professional services to all parties and shall make timely delivery of transcripts. The licensee must strive to meet promised delivery dates whenever possible, make timely delivery of transcripts when no date is specified and provide immediate notification of delays.

(d) Must immediately disclose any conflict of interest or appearance of impropriety as soon as it arises pursuant to T.C.A. § 24-9-136.

(e) Should immediately seek inactive status and refrain from practice if they become impaired and unable to function according to the standards of practice. It is the licensee's responsibility to seek supervision and/or personal therapy for any problem that is interfering with the ability to perform professional services.

- (f) Shall preserve the confidentiality and ensure the security of information, oral or written, entrusted to the licensee by any and all of the parties in the proceeding.
- (g) Shall establish a plan for the security and preservation of shorthand notes and any backups, both paper and electronic. All such plans shall preserve notes and backups for a period of time that complies with statutory requirement or rules and guidelines of the court. In the absence of a law or rule, notes and backups must be retained for no less than five (5) years.
- (h) Shall affix the licensee's signature, license number and expiration date to a transcript to certify to its accuracy.
- (i) Shall not authorize the use of the licensee number on any transcript not produced through the personal effort or supervision, or both.
- (j) Shall not permit the use of the licensee name or firm's name, nor shall a licensee be associated in business ventures with persons or firms that the licensee has reason to believe to be engaging in fraudulent or dishonest business practices.
- (k) Shall inform the Disciplinary Counsel of the Board of Court Reporting if they have knowledge that another court reporter has committed a violation of the Standards of Professional Conduct or the Tennessee Court Reporter Act of 2009 that raises a substantial question as to that court reporter's honesty, trustworthiness, or fitness as a court reporter in other respects.
- (l) A licensee shall also cooperate with any investigation resulting from a complaint for disciplinary action.
- (m) (†) Shall not commit a criminal act that is a felony, or reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter in other respects.
- (n) Shall be truthful and accurate when making public statements or when advertising qualifications or services provided.
- (o) Shall meet all mandated continuing education requirements and should keep abreast of current literature and technological advances and developments as related to the profession of court reporting.
- (p) Shall refrain from giving, directly or indirectly, any gift, incentive, reward or anything of value to attorneys or any other persons or entities associated with the litigation (e.g., clients, witnesses, insurance companies, etc.), or to the representatives or agents of any of the foregoing, except for items that do not exceed twenty-five dollars (\$25.00) in the aggregate per individual each year.

Authority: T.C.A. §§ 20-9-605 and 20-9-607

Rule 0455-01-05-.04 is amended by deleting the text of the rule in its entirety and substituting instead the following so the rule, as amended, shall read:

~~0455-01-05-.04 INVESTIGATION.~~

~~(1) Upon self disclosure or receipt of a written complaint on a TBCR Consumer Complaint Form signed by the person making the complaint, alleging that a court reporter has violated a statute or rule by committing one or more of the acts specified as grounds for disciplinary action, the Disciplinary Counsel, to be designated by the Board, shall perform a preliminary review to determine if there is merit and sufficient evidence to warrant formal proceedings. The Consumer Complaint Form must be complete before an investigation is launched. Complaints must be submitted to the Board within ninety (90) days of the alleged occurrence, or within ninety (90) days of the discovery of a violation.~~

~~(2) When the Disciplinary Counsel determines there may be merit and sufficient evidence exists to warrant proceedings, a hearing committee shall be formed consisting of three members, one of which must be an attorney and one of which must be a court reporter.~~

~~(a) Within five (5) days of self disclosure or receipt of a written complaint, the Disciplinary Counsel shall provide the court reporter against whom the complaint was made written notification of the complaint, allegation(s), and investigation process by certified mail or other delivery service that provides confirmation of delivery. The court reporter may submit, to the Disciplinary Counsel a written response and any supporting documentation within 15 days of the receipt of the written notification.~~

~~(b) The committee shall review the complaint and other information submitted to determine if further investigation is warranted.~~

~~1. If an investigation is warranted, the Disciplinary Counsel will conduct further investigation, retaining an investigator, if necessary. If retained, the investigator shall work under the direction of the Disciplinary Counsel to conduct further investigation.~~

~~2. At the conclusion of the investigation, the investigator shall submit an investigation report to be reviewed by the Investigative Committee who has the authority to act on the report. The Investigative Committee shall send written notification to the complainant and the court reporter, against whom the complaint was made, of any action it decides to take in response to the investigation report.~~

~~(c) If the committee determines that an investigation is not warranted, the Disciplinary Counsel may close the investigative file, provided that the matter may be reinvestigated at any time if circumstances so warrant. The Disciplinary Counsel shall notify the complainant and the court reporter against whom the complaint was made.~~

~~(3) When a preliminary review discloses that further investigation is not warranted, the Disciplinary Counsel may close the investigative file upon approval of the Chair of the Board, provided that the matter may be reinvestigated at any time if circumstances so warrant.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.~~

0455-01-05-.04 INVESTIGATIONS AND COMPLAINTS.

(1) The Board may investigate any person engaged, or suspected of engaging, in any business or activity regulated under the Tennessee Court Reporter Act of 2009.

(2) Upon receipt of any written complaint regarding any licensee or person engaged in unlicensed activity, the Board shall provide a copy of the written complaint to the accused party within five (5) days. Such party shall file a written answer to the complaint, within twenty (20) days, upon request by the Board.

Rule 0455-01-05-.05 is amended by deleting the text of the rule in its entirety and substituting and renumbering rule 0455-01-05-.06 so the rule, as amended, shall read:

0455-01-05-.056 UNIFORM ADMINISTRATIVE PROCEDURE ACT.

The Board hereby adopts by reference as its rules the Uniform Administrative Procedure Act, T.C.A. Title 4, Chapter 5, for governing contested cases, appeals, and related proceedings.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

Rule 0455-01-05-.06 is amended by moving the text of the rule in its entirety to 0455-01-05-.05 and substituting instead the following so the rule, as amended, shall read:

0455-01-05-.06 CIVIL PENALTIES.

(1) With respect to any licensed court reporter, temporary licensed court reporter, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate statutory or regulatory violation not to exceed five hundred dollars (\$500.00) per violation.

(2) With respect to any person required to be licensed in this state as a court reporter, the Board may assess a civil penalty against such person for each separate statutory or regulatory violation not to exceed five hundred dollars (\$500.00) per violation.

(3) Each daily violation constitutes a separate offense.

(4) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk of harm to the public;

- (d) The economic benefits gained by the violator as a result of noncompliance;
- (e) The interest of the public; and
- (f) Willfulness of the violation.

Authority: 2009 Pub.Acts, c. 450, § 1; 2010 Pub.Acts, c. 1123, §§ 3, 7 and T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, 56-1-308.

Rule 0455-01-05-.07 is amended by inserting the text of rule 0455-01-05-.11, so the rule, as amended, shall read:
~~0455-01-05-.07 FORMAL DISPOSITION OF CONTESTED CASES.~~

~~(1) At least twenty one (21) days prior to the administrative hearing, a notice of hearing and a copy of the charges shall be served on the applicant or court reporter personally or by registered or certified mail to the last known address shown on the records of the Board.~~

~~(2) The Board's complaint may be amended prior to the hearing but no amendment shall be permitted which is not germane to the charge or charges or which materially alters the nature of any offense charged. The Board shall have the right to determine the sufficiency of the complaint.~~

~~(3) A motion for withdrawal of the complaint may be filed with the Board's designee. The circumstances surrounding the attempt to withdraw the complaint may be explained by the person who is attempting to withdraw the complaint and the explanation shall be considered. No complaint that is well-founded will be dismissed solely upon the motion of the original complainant.~~

~~(4) Pleadings relating to disciplinary proceedings pending before the Board shall be filed with the Board's designee. Pleadings shall be deemed filed upon actual receipt.~~

~~(5) Requests for subpoenas shall be filed with the Board at least ten (10) days prior to the hearing along with the appropriate subpoena processing fee. Any expense for service by a sheriff, process server or other entity shall be the responsibility of the party requesting the subpoena. Any expenses incurred relative to subpoenas requested by a respondent, either for witnesses or related to production of documents, are the responsibility of the party who requested the issuance of said subpoena.~~

~~(6) The hearing shall be conducted by the Board in the presence of a hearing officer or by a hearing officer, pursuant to T.C.A. § 4-5-301. All testimony shall be under oath and shall be transcribed by a court reporter scheduled by the Board. Telephonic or other real-time electronic testimony is admissible at the discretion of the hearing officer.~~

~~(7) A continuance may be granted by the Board or its designee upon the filing of a written motion and affidavit detailing the reasons for the continuance. No motion for continuance shall be granted unless filed at least five days prior to the hearing. This provision may be waived upon showing of an emergency.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.~~

0455-01-05-.~~07~~⁴⁴ REINSTATEMENT OF A SUSPENDED OR REVOKED LICENSE.

(1) Application for reinstatement shall include evidence of corrective action taken by the licensee. ~~rehabilitation, or elimination or resolution of the conditions for revocation.~~ Such application shall be made utilizing the forms provided by the Board.

~~(2) Applications for reinstatement of a revoked license may be resolved informally or through the formal hearing process.~~

~~(2)~~³ In considering reinstatement of a revoked license, the Board may evaluate factors that include but are not limited to:

- (a) Severity of the act(s) that resulted in suspension or revocation of the license.
- (b) Conduct of the applicant subsequent to the suspension or revocation of license.
- (c) Lapse of time since suspension or revocation.
- (d) Compliance with all reinstatement requirements stipulated by the Board.
- (e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.

- (f) Whether the applicant is in violation of any applicable statute or rule.
- (g) Directly or implied representation that the person was a licensed court reporter during the period of revocation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.

Rule 0455-01-05-.08 is amended by deleting the text of the rule in its entirety.

~~0455-01-05-.08 INFORMAL DISPOSITION OF CONTESTED CASES.~~

~~(1) Complaints or controversies may be considered and resolved by the Board or Board designee through alternative dispute resolution, informal conferences, meetings, or other informal means. Such informal measures shall be held without prejudice to the right of the Board thereafter to institute formal proceedings based upon the same or related material if circumstances so warrant.~~

~~(2) Informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing and as approved by the Board.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.~~

Rule 0455-01-05-.09 is amended by deleting the text of the rule in its entirety

~~0455-01-05-.09 DECISIONS OF THE BOARD.~~

~~(1) Based upon the evidence presented at the administrative hearing or pursuant to informal disposition the Board action may be one or more of the following:~~

- ~~(a) Dismiss the complaint.~~
- ~~(b) Reprimand the respondent.~~
- ~~(c) The respondent's license placed on probation status, subject to any conditions imposed.~~
- ~~(d) Suspend the respondent's license. A suspended license is subject to expiration during the suspension period.~~
- ~~(e) Revoke the respondent's license.~~
- ~~(f) Deny approval of an application.~~
- ~~(g) Deny renewal or reinstatement of a license.~~
- ~~(h) Impose other sanctions, restrictions or conditions.~~

~~(2) The Board may levy a civil penalty not to exceed five hundred dollars (\$500) per violation where any person undertakes or attempts to undertake the practice of court reporting for remuneration without first having procured a license, or knowingly presents or files false information with the board for the purpose of obtaining a license, or otherwise violates the Tennessee Court Reporter Act of 2009 or the rules promulgated thereunder. Each day of a violation after notice is considered a separate violation.~~

~~(3) The decisions of the Board shall be in writing in the form of an order, a copy of which shall be mailed or delivered to the respondent or the respondent's attorney.~~

~~(4) The decisions of the Board shall be subject to public dissemination.~~

~~(5) Appeals may be made pursuant to the Uniform Administrative Procedure Act provisions on contested cases, T.C.A. Title 4, Chapter 5, Part 3.~~

~~(6) All members of the Board, including the Chair, are entitled to vote and to make or second motions in disciplinary matters except for any Board Member who may also serve on the Investigative Committee, serve as the Complainant, or have a conflict of interest in the case being decided. A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.~~

Rule 0455-01-05-.10 is amended by deleting the text of the rule in its entirety.

~~0455-01-05-.10 APPLICATION FOLLOWING DENIAL OF LICENSURE.~~

- ~~(1) Application for a license following denial of licensure shall include evidence of rehabilitation, or elimination or resolution of the conditions for denial.~~
- ~~(2) Board action on applications following denial of licensure may be resolved either informally or through the formal hearing process.~~
- ~~(3) In considering a subsequent application for licensure, the Board may evaluate factors that include but are not limited to:
 - ~~(a) The severity of the act(s) or omission(s) which resulted in the denial of license.~~
 - ~~(b) The conduct of the applicant subsequent to the denial of license.~~
 - ~~(c) The lapse of time since denial of license.~~
 - ~~(d) Compliance with any conditions stipulated by the Board as a prerequisite for a subsequent application.~~
 - ~~(e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.~~
 - ~~(f) Whether the applicant is in violation of any applicable statute or rule.~~~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608.~~

Rule 0455-01-06-.01 is amended by adding paragraph (6) so that the rule reads as follows:

0455-01-06-.01 CONTINUING EDUCATION REQUIREMENTS.

- (1) Beginning with the first renewal and every renewal thereafter, every licensee who applies for renewal of a license shall have completed two (2) credits of continuing education (CE) relevant to the practice of court reporting.
- (2) A Renewal Period is the twenty four (24) months preceding July 1 of the year of license expiration.
- (3) A continuing education (CE) credit means ten (10) hours of continuing education.
- (4) A continuing education (CE) hour means a minimum of fifty (50) minutes of actual clock time spent by a licensee in actual attendance at and completion of an approved continuing education (CE) activity. After completion of the initial continuing education (CE) hour, credit may be given in one-half hour (.5) increments.
- (5) Non-Resident Licensees shall comply with the continuing education (CE) Requirements set forth in this Section.
- (6) Failure to obtain the requisite continuing education (CE) credits will result in an incomplete application and will cause the application to not be processed.

Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.

Rule 0455-01-06-.05 is amended by deleting the text of the rule in its entirety.

~~0455-01-06-.05 NON-COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENT.~~

- ~~(1) Each renewal applicant's CE credit will be reviewed to ensure that the CE requirement has been met.~~
- ~~(2) Where there appears to be a lack of compliance with the CE requirement, an applicant shall be notified in writing. Such applicant may request an interview with the Board.~~
- ~~(3) The Board may recommend steps being taken to begin formal disciplinary proceedings for non-compliance with the CE requirement.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.~~

Rule 0455-01-06-.06 is amended by deleting the text of the rule in its entirety.

~~0455-01-06-.06 WAIVER OF CE REQUIREMENTS.~~

~~(1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Board a renewal application along with the required renewal fee, a statement setting forth the facts concerning non-compliance and request a waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Board, finds from the documentation submitted that extreme hardship has been shown for granting a waiver, the Board shall waive enforcement of CE requirements for the renewal period for which the applicant has applied. Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the application pre-renewal period because of:~~

- ~~(a) Full time service in the armed forces of the United States during a substantial part of the pre-renewal period;~~
- ~~(b) An incapacitating illness documented by a statement from a currently licensed physician;~~
- ~~(c) A physical inability to travel to the sites of approved programs documented by a currently licensed physician;~~
- ~~(d) Being retired from practice and not performing reporting services, or~~
- ~~(e) Any other similar extenuating circumstances.~~

~~(2) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the applicant is made by the Board.~~

~~Authority: T.C.A. §§ 20-9-605, 20-9-607 and 20-9-612.~~

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State