

**Department of State  
Division of Publications**

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Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

# 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 Court Reporting
<b>Division:</b>	Department of Commerce & Insurance
<b>Contact Person:</b>	Hugh Cross, Assistant General Counsel
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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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
0455-01-03	Licensure
Rule Number	Rule Title
0455-01-03-.02	Application for Licensure-Standard Process

Chapter Number	Chapter Title
0455-01-04	Standards of Professional Conduct
Rule Number	Rule Title
0455-01-04-.01	Standards of Professional Conduct

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>.

AMENDMENT  
0455-01-03-.02  
LICENSURE

0455-01-03-.02 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 ([RPR](#)), [passage of](#) the National Verbatim Reporters Association certified verbatim reporter examination ([CVR](#)), or [passage of both](#) the American Association of Electronic Reporters and Transcribers certified electronic court reporter ([CER](#)) examination [and certified electronic transcriber \(CET\) 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, 20-9-609, and 20-9-613.

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

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 their level of competence will result in the preparation of an accurate transcript, shall refuse an assignment if they believe their abilities are inadequate, and shall recommend or assign an assignment to 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.
  - (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.
  - (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 un-transcribed](#) 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 Board of Court Reporting if they have knowledge that another court reporter has committed a violation of these 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.
- (l) Shall cooperate with any investigation resulting from a complaint for disciplinary action.
- (m) Shall not commit a criminal act that reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter.
- (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.
- (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, 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. Administrative History: Original rule filed July 26, 2010; effective October 24, 2010. Amendments filed November 17, 2016; effective February 15, 2017.

\* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the \_\_\_\_\_ (board/commission/other authority) on \_\_\_\_\_ (mm/dd/yyyy), 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: \_\_\_\_\_ (mm/dd/yyyy)

Rulemaking Hearing(s) Conducted on: (add more dates). \_\_\_\_\_ (mm/dd/yyyy)

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

Agency/Board/Commission: \_\_\_\_\_

Rule Chapter Number(s): \_\_\_\_\_

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.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
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.

A member of the public submitted written comments to the rules prior to the hearing. The written comments were read aloud at the rulemaking hearing. The comments include the following:

Comment 1  
0455-01-03-.02

It was asked whether the additional testing requirement required by these rules will be applicable to current licensees.

Agency Response to Comment 1

To answer, the additional testing requirement required by these rules will apply to initial applications for licensure only and will have no effect on renewals for those currently licensed.

## **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.

The proposed rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules. These rules will also result in greater efficiency in removing barriers to entry with an additional acceptable examination which creates a greater opportunity to entry into the profession. Further, the Board sees minimal impact to consumers with promulgation of the proposed rules as these rules are also a positive move as they advance the welfare of Tennesseans in reducing regulation and permitting more examination methods of entry as well as reflecting advancements in technology. There will be only a marginal cost or no additional cost associated with this rule change. However, the Board knows of no other less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rules. Finally, these amendments are substantially similar to other states with rules and regulations over the court reporting industry, thus making Tennessee rules consistent with other jurisdictions and allowing better license portability for current and future licensees.

## **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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The Tennessee Board of Court Reporting foresees no 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)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules were approved by the Board on September 27, 2019. The first proposed change introduces an additional examination accepted upon application for licensure. This change is reflective of industry advancements and practical applications by the individuals seeking licensure. The second proposed change adds the word "un-transcribed" to the description of notes required to be secured by licensees as a part of their standards of professional conduct.

- (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 is no known state or federal law or regulation mandating 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 current licensees and future applications. We believe all affected will approve the adoption of these rules, because the proposed rules will benefit all industry members. Further, the Board proposed these changes based on discussion by associations of the court reporting industry.

- (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 relates directly to these proposed rules.

- (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 Board foresees minimal impact to state and local government revenues and expenditures.

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

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

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**(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.

There is no additional information relevant to the rule proposed for continuation that the committee requests.