

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs, State Board of Medicine

(2) I.D. Number (Governor's Office Use)

16A-4917

IRRC Number: 2420

(3) Short Title

Licensure of Medical Doctors

(4) PA Code Cite

49 Pa. Code, §§ 17.1, 17.2, 17.5 and
17.9

(5) Agency Contacts & Telephone Numbers

Primary Contact: Gerald S. Smith, Senior Counsel in
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Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

☐ Proposed Rulemaking
☒ Final Order Adopting Regulation
☐ Policy Statement

(7) Is a 120-Day Emergency Certification
Attached?

☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Current regulations pertaining to eligibility for a license to practice medicine for graduates of foreign medical schools and for those seeking a license by endorsement have become unduly restrictive and costly. By this rulemaking, the Board amends its regulations at 49 Pa. Code §§ 17.1(b) and 17.5(c)(2) to delete requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 discrete hours of instruction and 72 discrete weeks of clinical instruction. These requirements have become unduly restrictive to the entry of qualified applicants to the practice of medicine in the Commonwealth of Pennsylvania. Additionally, the time and expense involved with verifying each credit hour and each clinical rotation exceeds the relative benefit. Moreover, it has become increasingly difficult to obtain a breakdown of hours and weeks from foreign medical schools and training hospitals.

The Board is also amending its regulations at 49 Pa. Code § 17.2(c), pertaining to license by endorsement, so as to remove the examination as a mandatory requirement and provide the Board with greater discretion in assessing the qualifications for license by endorsement of physicians who have extensive practice experience. Over the years, the Board has reviewed applications from eminently qualified physicians of high professional reputation. The Board has come to recognize that requiring such practitioners to take general licensing examinations poses an undue restriction to licensing these qualified practitioners. Accordingly, the Board is striking the examination as a

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(8 cont.)

mandatory requirement when reviewing applications for license by endorsement.

The Board also is adding a new § 17.9 that will allow applicants the option of using the Federation of State Medical Boards Credentials Verification Service as an authentication clearing house and repository of source documentation of credentials.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulatory amendments are adopted under section 8 of the Medical Practice Act of 1985(act) (63 P.S. §422.8), which authorizes the Board to promulgate standards for licensing consistent with the requirements of sections 27, 28, and 29 of the act (63 P.S. §§422.27, 422.28 and 422.29).

(10) Is the regulations mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The current requirements have become unduly restrictive to the entry of qualified applicants to the practice of medicine in the Commonwealth of Pennsylvania and are becoming impracticable to implement.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation would adversely the Commonwealth's ability to attract qualified physicians.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Recipients of medical services will benefit if the Commonwealth improves its competitive ability to attract qualified physicians. Hospitals and other health care facilities with residency training programs will also benefit by having a larger pool of candidates.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse impact is anticipated.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All applicants for license are currently required to adhere to the regulations. This new rulemaking will be less restrictive than the current scheme.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In developing and drafting the regulation, the Board sought input from those individuals and groups who have identified themselves to the Board as parties interested in the regulatory proposals of the Board. The Board received no negative public comment pertaining to the rulemaking. The House Professional Licensing Committee and the Independent Regulatory Review Commission raised concerns as discussed in the preamble.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No anticipated costs or identifiable savings. Applications for license will be processed more efficiently allowing applicants to begin employment more quickly. The Board is not able to place a dollar value on these benefits.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments will not be affected by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Board will not incur an increase in administrative costs by implementing the regulation. In fact, the Board believes the amendments will provide a cost savings because applications will be processed more efficiently. However, the Board is unable to give a dollar estimate to these savings at this time.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 7/1/01	FY +1 Year 7/1/02	FY +2 Year 7/1/03	FY +3 Year 7/1/04	FY +4 Year 7/1/05	FY +5 Year 7/1/06
SAVINGS:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The amendments are believed to provide a cost savings because applications will be processed more efficiently and applicants will be employable earlier. However, the Board is unable to give a dollar estimate to these benefits.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 02-03	FY -2 FY 03-04	FY -1 FY 04-05	Current FY FY 05-06
State Board of Medicine	\$ 3,861,200.20	\$ 4,476,129.18	\$5,621,389.18	\$ 8,794,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The amendments are anticipated to create a benefit to the Commonwealth; see answer to 20a.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered, because the existing regulations must be amended.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal licensure standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation does not put Pennsylvania licensees at a competitive disadvantage with other states. The current regulations are more restrictive than those of other states. In regard to the requirements of our contiguous states:

Delaware requires ECFMG certification only and allows discretion for endorsement.

Ohio requires ECFMG certification and allows discretion for endorsement.

New York uses criteria similar to that used by ECFMG and allows discretion for endorsement.

New Jersey requires 4 weeks each in five specific core clinical rotations and premed courses in physics, chemistry, and biology, as well as ECFMG certification. In regard to endorsement New Jersey requires examination for licensing regardless of qualifications.

Maryland does not license graduate trainees, but requires ECFMG and 2 years graduate medical training for unrestricted license. The examination is not mandatory for eminent physicians.

West Virginia does not license graduate trainees and does not recognize eminent physicians.

Also see attached survey of all fifty states in regard to requirement for graduate medical training license.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will have no effect on other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board reviews regulatory proposals at regularly scheduled monthly public meetings. A schedule of board meetings can be found on the Department of State's website at www.dos.state.pa.us/bpoa. The Board provided a draft of the proposed regulations to those persons who have identified themselves as interested in the regulatory proposals of the Board. No negative public comments were received.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No changes to reporting, record keeping, or other paperwork are required by this regulation.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Board continually reviews its regulations at regularly scheduled public meetings each month.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
ALABAMA	Certificate of Qualification required. http://www.lexis.com/research/retrieve/frames?_m=0e83b39cee4d3a3fb841b2b990858eb1&csvc=toc2doc&cform=&fmtstr=FULL&docnum=1&startdoc=1&wchp=dGLbVlb-zSkAk&md5=4300315513f9e282b92a3d6608a9ec71	Yes.	Yes.	No.
ALASKA	Residency Permit required. http://www.dced.state.ak.us/occ/pub/MedicalStatutes.pdf	Yes.	Yes.	No.
ARIZONA	Training Permit required. http://www.bomex.org/	Yes.	Yes.	No.
ARKANSAS	License not required for residency. http://www.armedicalboard.org/support/forms/MPA.pdf	*When applying for permanent license	* When applying for permanent license	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
CALIFORNIA	Must register with the Division of Licensing http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=02001-03000&file=2050-2079	Yes.	Yes.	No.
COLORADO	Physician Training License required. http://www.dora.state.co.us/medical/MedicalPracticeAct.pdf	Yes.	Yes.	No.
CONNECTICUT	Education permit required. http://www.lexis.com/research/retrieve/frames?_m=8213f732bd92c1675b41b9b618b7040f&csvc=toc2doc&cform=&fmtstr=FULL&docnum=1&startdoc=1&wchp=dGLbVlz-zSkAk&md5=d1110dfebd37ef23d0e4252d8a9ff3#TABIAAC	Yes.	Yes.	No.
DELAWARE	Institutional License required. http://www.state.de.us/research/AdminCode/title24/1700%20Board%20of%20Medical%20Practice.shtml#TopOfPage	Yes.	Yes.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
D.C.	Post-Graduate Physician registration required. http://dchealth.dc.gov/prof_license/services/pdf/PDF_frameset.asp?strAppId=9&id=medicine/MunicipalMedicineRegulations.pdf	Yes.	Yes.	No, but an applicant's premedical studies shall include the following subjects: (1) Biology; (2) Inorganic chemistry; (3) Organ chemistry; and (4) Physics.
FLORIDA	Registration required. 2004->Ch0458->Section%20345#0458.345">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0458/SEC345.HTM&Title=->2004->Ch0458->Section%20345#0458.345	Yes.	Yes, unless applicant received a bachelors degree from a U.S. university, or studied at a medical school recognized by WHO.	No.
GEORGIA	Temporary Post-graduate Training Permit required. http://www.lexis.com/research/retrieve/frames?m=063daa8f373adb1810f62a8c02d53922&csvc=toc2doc&cform=&fmtstr=FULL&docnum=1&startdoc=1&wchp=dGLbVlz-zSkAk&md5=ca705e6f971eb9aca71a0d2578252c58	Yes.	Yes.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
HAWAII	Limited and Temporary License required. http://www.hawaii.gov/dcca/main/har/	Yes.	Yes.	No.
IDAHO	Temporary License required. http://www2.state.id.us/adm/adminrules/rules/idapa22/22index.htm	Yes.	Yes.	No.
ILLINOIS	Temporary Permit required. http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1309&ChapAct=225%26nbsp%3BILCS%26nbsp%3B60%2F&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Medical+Practice+Act+of+1987%2E	Yes.	Any nationally recognized test accepted.	Course of study must be 132 weeks in duration and shall have been completed within a period of not less than 35 months
INDIANA	Temporary Medical Permit required. http://www.in.gov/pla/bandc/mlbi/IC_25-22.5_Compilation.pdf	Yes.	Yes.	No.
IOWA	Resident Physician License required. http://www.legis.state.ia.us/Rules/Current/iac/653iac/65310/65310.pdf	Yes.	Yes.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
KANSAS	Post-graduate Permit required. http://www.ksbha.org/statutes/haact.html#2811	Yes.	Yes.	The standard of education must be substantially equivalent to the university of Kansas school of medicine.
KENTUCKY	Limited License for Institutional Practice required. http://www.lrc.state.ky.us/krs/311-00/571.pdf	Yes.	Yes.	One year post graduate training required.
LOUISIANA	Graduate Education Temporary Permit required. http://www.lsbme.org/documents/licensure/GETP%20Application-Instructions%20010505.pdf	Yes.	Yes.	No.
MAINE	Educational Certificate required. http://janus.state.me.us/legis/statutes/32/titl e32ch48sec0.html	Yes.	Yes. Visa Qualifying Examination also accepted.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
MARYLAND	No license required for residency. http://www.lexis.com/research/retrieve/fra mes? m=5f7a98f80e aeea400e59267a9e82 5880&csvc=toc2doc &cform=& fmtstr=F ULL&docnum=1& s tartdoc=1&wchp=dG LbVlz- zSkAk& md5=10be4 bc4a2299feeaff70d1e 77bed9a9	*When applying for permanent license	* When applying for permanent license.	No.
MASSACHUSETTS	Limited License required. http://www.massmed board.org/regs/pdf/regs-243cmr.pdf	Yes.	Yes.	Medical education shall include: 1. two academic years of basic science study; and 2. two academic years of clinical study.
MICHIGAN	Educational Limited License required. http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin Num=33802301&Dpt=CH&R ngHigh=	Yes.	Yes.	No.
MINNESOTA	Residency Permit Required. http://www.revisor.leg.state.mn.us/stats/147/	Yes.	Yes.	The board may review or investigate, including site visits if necessary, any medical or osteopathic school prior to approving the school.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
MISSISSIPPI	Limited Institutional License required. Must be enrolled in a program through Univ. of Mississippi Medical Center. http://www.msbml.state.ms.us/regs1.pdf	Yes.	Yes.	No.
MISSOURI	Temporary License required. http://pr.mo.gov/healtharts-rules-statutes.asp	Yes.	Yes.	Must attend at least four terms of thirty-two weeks of actual instructions in each term, including, experience in operative and hospital work during the last two years of instruction.
MONTANA	Temporary Certificate required. http://data.opi.state.mt.us/bills/mca_toc/37_3_3.htm	Yes.	Yes.	No.
NEBRASKA	Temporary Education Permit required. http://www.sos.state.ne.us/business/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-88.pdf	Yes.	Yes. Visa Qualifying Examination and Fifth Pathway also accepted.	No.
NEVADA	Limited License required. http://www.leg.state.nv.us/nrs/NRS-630.html#NRS630Sec160	Yes.	Yes.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
NEW HAMPSHIRE	Resident Training License required. http://gencourt.state.nh.us/rules/med100-500.html	Yes.	Yes.	No.
NEW JERSEY	Must Register with the Board before beginning graduate medical training. http://www.state.nj.us/lps/ca/bme/statreg/bmeregulations2.pdf	Yes. Medical school must be recognized by the Board or the World Health Organization.	Yes.	Medical school must be at least 32 months long.
NEW MEXICO	Post-Graduate Training License required. http://www.state.nm.us/nmbme/governing.html	Yes.	Yes.	No.
NEW YORK	See website at: http://www.op.nysed.gov/article131.htm	Yes, school must be recognized by World Health Organization	Yes, but other exams are also accepted.	One year of clinical training required during course of medical school.
NORTH CAROLINA	Graduate Training License required. http://www.ncmedboard.org/	Yes.	Yes.	Medical schooling must be at least 4 years.
NORTH DAKOTA	Special License required. http://www.ndbomex.com/Medact43_17.asp#21	Yes.	Yes.	No.

STATE	WHAT APPLICANT MUST OBTAIN:	DIPLOMA FROM FOREIGN MEDICAL SCHOOL REQUIRED:	ECFMG REQUIRED:	DISCRETE AMOUNT OF CLASS AND CLINICAL TIME MUST BE DOCUMENTED:
OHIO	Training Certificate required. http://med.ohio.gov/train.htm	Yes.	Yes.	No.
OKLAHOMA	Special License required for Post-Graduate Training. http://www.okmedicalboard.org/miscFunction.php?filename=MDRULES.pdf	Yes.	Yes, unless participating in Fifth Pathway program or graduating from a Canadian school.	No, but education and training must be equivalent to that of the University of Oklahoma School of Medicine.
OREGON	Limited Postgraduate License required. http://arcweb.sos.state.or.us/rules/OARS_800/OAR_847/847_tofc.html	Yes. School must be recognized by World Health Organization.	Yes.	Attendance of at least four full terms of instruction of eight months each, with all courses having been completed by physical on-site attendance.
PENNSYLVANIA	Graduate License required. http://www.pacode.com/secure/data/049/chapter17/chap17toc.html	Yes.	Yes.	32 months/ 4000 hrs of curriculum, 72 weeks of clinical training.
RHODE ISLAND	Limited Medical Registration Certificate required. http://www.rules.state.ri.us/rules/released/pdf/BMLD/BMLD_3194.pdf	Yes.	Yes, but may be waived if program is of less than 6 mos.	Medical school must be at least 2 years in duration and must be attested to by Director of school.

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SOUTH CAROLINA	Must be accepted into a valid program in South Carolina http://www.llr.state.sc.us/pol/medical/	Yes	Yes	Registrar from the medical school must sign enrollment verification forms, and a transcript must be attached.
SOUTH DAKOTA	Resident Certificate required. http://www.state.sd.us/doh/medical/physician.htm	Yes.	Yes.	No.
TENNESSEE	Special Training License required. http://state.tn.us/sos/rules/0880/0880-02.pdf	Yes, and notarized copy of transcript.	Yes.	Course instruction must consist of the equivalent of at least 4 academic years with a minimum of 32 weeks of relevant medical instruction each academic year.
TEXAS	Physician-In-Training Permit required. http://www.tsbme.state.tx.us/rules/mpa/chapter155.htm	Yes.	Yes	Curriculum must meet the requirements for an unapproved medical school as determined by a committee of experts selected by the Texas Higher Education Coordinating Board
UTAH	No license required for residency/internship. http://www.dopl.utah.gov/licensing/statutes_and_rules/58-67.PDF	*Yes (for permanent license).	*Yes (for permanent license).	One calendar year of clinical training required (for permanent license).

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VERMONT	Limited Temporary License required. http://www.healthymonters.info/bmp/legal/chapter23.htm	Yes.	* May be required for permanent license, but not temporary license.	No.
VIRGINIA	Memorandum by director of program in Virginia http://www.dhp.state.va.us/	Yes	Yes	No
WASHINGTON	Limited license required. http://www.leg.wa.gov/RCW/index.cfm?function=section&section=18.71.051	Yes	Yes	No.
WEST VIRGINIA	Temporary License not required. Individual programs may have their own requirements. http://www.wvdhhr.org/wvbom/CSR_11_01A.asp	*Yes, when applying for final license.	*Yes, when applying for final license.	No.
WISCONSIN	Temporary Education Permit required during residency, and applicant must meet any additional requirements of the hospital. http://drl.wi.gov/prof/doct/faq.htm	Yes, from school approved by World Health Org.	Yes	Must have 12 mos. Of clinical training if applicant did not complete internship and social service during medical school.

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WYOMING	No license required for graduate medical training/ residency, but must complete Educational Program Application. http://wyomedboard.state.wy.us/physpage.asp	* Yes, when applying for final license.	* Yes, when applying for final license	* Possibly, depending on circumstances when applying for final license.

(b) *Unauthorized removal.* If a person removes an ignition interlock system, or directs a provider to remove an ignition interlock system, under circumstances not provided for in this section, the provider shall notify the Department of the person's noncompliance.

§ 88.105. Recall and reissuance of ignition interlock restricted license.

(a) *Recall.* Upon receipt of notification from a provider of a person's noncompliance with any provision of this chapter, the Department may recall the person's ignition interlock restricted license.

(b) *Reissuance.* After receiving a new certification from a provider of compliance with this chapter by the person, the Department may reissue an ignition interlock restricted license to the person, and the person shall complete the balance of the ignition interlock restricted license period previously imposed before an unrestricted license will be issued.

§ 88.106. Issuance of unrestricted license.

(a) *General rule.* Upon completion of the ignition interlock restricted license period, a person who has been issued an ignition interlock restricted license may apply to the Department for issuance of an unrestricted license on a form provided by the Department.

(b) *Pending charges.* A person applying for an unrestricted license shall notify the Department on the application of any convictions and pending charges of illegally operating a motor vehicle not equipped with an ignition interlock, including all convictions and charges of tampering with an ignition interlock system, in violation of 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock), for a violation within the preceding 12 months. If the person notifies the Department of a pending charge, or of a conviction that has not yet been reported to and processed by the Department, the Department will deny the application.

(c) *Cancellation of unrestricted license.* If the Department receives or processes a record of a person's first conviction of violating 75 Pa.C.S. § 3808 after issuing an unrestricted license to the person, the Department will cancel the person's unrestricted license and will issue an ignition interlock restricted license to the person after receiving a new certification from a provider of the person's compliance with this chapter.

§ 88.107. Issuance of license to a person restricted by another state.

A person who has been issued a license with an ignition interlock restriction by another state, and who is otherwise eligible for issuance of a license under 75 Pa.C.S. § 1508(b) (relating to examination of applicant for driver's license), may apply for an ignition interlock restricted license from the Department in accordance with this chapter. The person shall become eligible for issuance of an unrestricted license only after serving an ignition interlock restricted license period of 1 year. If the person can provide documentation from the state that initially imposed the ignition interlock restriction satisfactory to the Department showing the amount of time that the person has been subject to the ignition interlock restriction, the person will be given credit against the ignition interlock restricted license period imposed with the Pennsylvania license.

§ 88.108. Ignition interlock for nonresidents.

A person who is required to comply with 75 Pa.C.S. § 3805 (relating to ignition interlock), but is not a

resident of this Commonwealth at the time when the person seeks a restoration of operating privileges, shall submit an affidavit and supporting documents to the Department indicating the person's state of residence. If the Department determines that the person is not a resident of this Commonwealth and the person has met all other restoration requirements, the person's driving privilege may be restored. If, however, the person should become a resident of this Commonwealth during the ignition interlock restricted license period, the person will not be issued an unrestricted license until the person complies with 75 Pa.C.S. § 3805 and this chapter.

[Pa.B. Doc. No. 04-1633. Filed for public inspection September 3, 2004, 9:00 a.m.]

FISH AND BOAT COMMISSION

[Correction]

[58 PA. CODE CHS. 91 AND 111]

Boating; General Provisions and Special Regulations Counties

An error occurred in the proposed rulemakings which appeared at 34 Pa.B. 4151—4153 (August 7, 2004). The e-mail address for comments on these proposed rulemakings is ra-pfbcregs@state.pa.us.

[Pa.B. Doc. No. 04-1441 and 04-1442. Filed for public inspection August 6, 2004, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 17]

Licensure of Medical Doctors

The State Board of Medicine (Board) proposes to amend §§ 17.1, 17.2 and 17.5 (relating to license without restriction; license without restriction—endorsement; and graduate license) to read as set forth in Annex A.

A. Effective Date

The proposed rulemaking will be effective upon publication as final form regulations in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 8 of the Medical Practice Act of 1985 (act) (63 P.S. § 422.8) authorizes the Board to promulgate standards for licensing consistent with sections 27, 28 and 29 of the act (63 P.S. §§ 422.27, 422.28 and 422.29).

C. Background and Purpose

The Board has determined that its regulations pertaining to eligibility for a license to practice medicine of graduates of foreign medical schools and applicants for a license by endorsement are, in view of currently available alternatives, unduly restrictive and costly. The Board therefore intends to amend §§ 17.1(b) and 17.5(c)(2) to delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of in-

struction and 72 weeks of clinical instruction. The Board's experience indicates that these requirements have become unduly restrictive to qualified applicants to the practice of medicine in this Commonwealth. Further, the Board has determined that the time and expense involved with verifying each credit hour and each clinical rotation exceeds the relative benefit. This is especially significant given fact that the Educational Commission for Foreign Medical Graduates (ECFMG), the Nationally recognized certifying and examining body, obtains original source verification of medical education prior to certifying foreign medical graduates. Additionally, few, if any, other jurisdictions have comparable requirements. Thus, the Commonwealth is placed at a competitive disadvantage in attracting qualified applicants.

The Board will continue the requirements in §§ 17.1(a)(3) and 17.5(c)(1) that graduates of foreign medical colleges obtain certification from the ECFMG to be eligible for licensing. ECFMG certification is the Nationally recognized standard for assessing the qualifications of graduates of foreign medical schools. It has long been a requirement of the Board and is a requirement for license in most, if not all, jurisdictions in the United States.

Prior to granting certification, the ECFMG verifies that the physician has obtained a diploma from a medical school recognized by the country in which the school is situated; that the school is listed in the International Medical Education Directory, that the curriculum requirement is a minimum of 4 academic years and that the physician has passed steps 1 and 2 of the United States Medical Licensing Examination (USMLE), has passed the Clinical Skills Assessment Examination and has passed the Test of English as a Foreign Language. Additionally, the ECFMG verifies the validity of primary source documentation such as diploma, transcript and documentation of other credentials, as well as any name change documentation.

Accordingly, the Board is satisfied that a physician who graduates from a foreign medical school and obtains ECFMG certification should be eligible for a graduate training license. Once the remaining current requirements of graduate medical training and passage of step 3 of the USMLE are met, the physician should be eligible for an unrestricted license.

The Board intends to amend § 17.2(c), pertaining to license by endorsement, to delete the examination as a mandatory requirement. The deletion of the mandatory requirement will provide the Board with greater discretion in assessing the qualifications for license by endorsement of physicians who have extensive practice experience. In enforcing this section, the Board has reviewed applications from eminently qualified physicians of high professional reputation. The Board has come to recognize that requiring these practitioners to take general licensing examinations poses an undue restriction to licensing these qualified practitioners. Accordingly, the Board intends to strike the examination as a mandatory requirement when reviewing applications for license by endorsement.

The current language in § 17.2(d) describes criteria that the Board viewed as equivalent to ECFMG certification for physicians licensed prior to March 25, 1958. These regulations are no longer necessary because they would be applicable to individuals who would now be approximately 74 years of age. ECFMG certification has included steps 1 and 2 of the USMLE since June and September 1992, respectively. Prior certification by the

ECFMG required the passage of one of several alternative examinations. At this point individuals who have prior ECFMG certification should also possess over 10 years of experience. Accordingly, the Board believes it appropriate for endorsement purposes to treat individuals with ECFMG certification as possessing the equivalent of passing scores on steps 1 and 2 of the USMLE. Accordingly, § 17.2(d) will be amended to recognize this equivalency.

The Board identified the criteria it has considered when reviewing applications for license by endorsement from individuals who otherwise are qualified to practice medicine but who have not taken a licensing examination recognized by the Board. This proposed rulemaking will codify those criteria. Under the proposed rulemaking, the Board may consider years of experience, professional and academic achievement and credentials, and certification by a Board recognized specialty certification body in lieu of the examination provided for in § 17.2(c).

The Board also intends to accept the Federation of State Medical Board's Credentials Verification Service (FCVS) as an optional mechanism for applicants to document completion of education, training and examination requirements. The FCVS serves as a depository and as a clearinghouse for applicants. Applicants who are seeking licensure shall submit documentation demonstrating completion of medical education and clinical training. Applicants applying in more than one jurisdiction will have the option of submitting credentialing documents to the FCVS, which will verify the authenticity and accuracy of those documents. Applicants who utilize the FCVS may save time and expense because their credentials will be verified once rather than multiple times.

D. Description of the Proposed Rulemaking

The proposed amendments to §§ 17.1(b) and 17.5(c)(2) delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of instruction and 72 weeks of clinical instruction. Section 17.1(b) is further amended to indicate that applicants may use the FCVS to verify their credentials.

Section 17.2(c), pertaining to license by endorsement, will be amended to delete the examination requirement as mandatory. Section 17.2(d) will be amended to accept ECFMG certification as the equivalent of passing scores on steps 1 and 2 of the USMLE.

Section 17.2(e) will be amended to identify the criteria the Board will consider in lieu of examination when reviewing applications for license by endorsement.

E. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivisions or the private sector.

F. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 23, 2004, the Board submitted a copy of the proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Joanne Troutman, Health Licensing Division, Bureau of Professional and Occupational Affairs, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication for the proposed rulemaking in the *Pennsylvania Bulletin*.

CHARLES D. HUMMER, Jr., M.D.,
Chairperson

Fiscal Note: 16A-4917. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 17. STATE BOARD OF MEDICINE—MEDICAL DOCTORS

Subchapter A. LICENSURE OF MEDICAL DOCTORS

§ 17.1. License without restriction.

(a) Except as provided in [subsection (b) and] § 17.2 (relating to license without restriction—endorsement), to secure a license without restriction an applicant shall:

* * * * *

(b) [An applicant who is a graduate of an unaccredited medical college, who files an application for a license after December 31, 1988—the application is not considered filed with the Board until it is complete—shall, in addition to satisfying the requirements in subsection (a), have completed:

(1) Four academic years totaling at least 32 months and 4,000 hours of instruction in medical curriculum. Regular attendance shall be verified. Credit will not be given toward this requirement for instruction obtained in other than an accredited or unaccredited medical college, except for clinical rotations assigned under the auspices of the medical college in which the applicant was enrolled while participating in the clinical rotations.

(2) Seventy-two weeks of clinical rotations in an institution which has a graduate medical training program in the clinical area for which credit is sought, or, if the institution is not within the United States, is either a part of a medical college or has a formal affiliation with a medical college. Applicants may use the Federation's Credentials Verification Service (FCVS) to verify their credentials to the Board.

§ 17.2. License without restriction—endorsement.

* * * * *

(c) *License examination.* In evaluating the qualifications of an applicant who seeks a license without restriction on the basis of endorsement, the Board will accept [no substitute for] a passing score on a licensing examination acceptable to the Board. [See § 17.1(a)(1).] If the examination was not taken in English, but is otherwise acceptable, and a passing score was secured, the Board will accept the examination result if the applicant has also secured a passing score [of 550] on the Test of English as a Foreign Language (TOEFL) [or ECFMG certification].

(d) *ECFMG certification.* [The ECFMG established a certification mechanism which became effective on March 25, 1958. In part, the ECFMG certification process is designed to test whether a graduate of an unaccredited medical college has acquired sufficient medical knowledge to participate in graduate medical training in United States hospitals, and whether a person who has graduated from an unaccredited medical college and whose principal language is not English has mastered the English language so that the person has achieved the communication skills necessary to participate in graduate medical training in United States hospitals. The Board recognizes that many medical doctors who graduated from unaccredited medical colleges prior to the establishment of the ECFMG certification process and who have not received ECFMG certification have, nevertheless, been licensed as medical doctors prior to March 25, 1958, in this Commonwealth and in other states, territories and possessions of the United States. If, prior to March 25, 1958, a graduate of an unaccredited medical college secured a license to practice medicine and surgery without restriction in any of the states, territories or possessions of the United States, and has successfully completed 3 years of graduate medical training, the Board will endorse these qualifications as equivalent to the ECFMG certification. Additionally, the Board will endorse the combination of the successful completion of a fifth pathway program and an ECFMG certification examination as equivalent to the ECFMG certification.] For purposes of endorsement, a graduate from an unaccredited medical school who has obtained certification by the ECFMG shall be deemed to have the equivalent of a passing score on steps 1 and 2 of the USMLE.

(e) The Board may consider years of experience, professional and academic achievement and credentials, and certification by a Board recognized specialty certification body in lieu of the examination requirement provided in subsection (c).

§ 17.5. Graduate license.

* * * * *

(c) Additional requirements for securing a graduate license are that the applicant shall satisfy the following:

* * * * *

(2) [Have completed, if the applicant is a graduate of an unaccredited medical college or satisfies the requirements of subsection (b)(2), and files an application for a graduate license after December

31, 1988—the application is not considered filed with the Board until it is complete—the following:

(i) Four academic years totaling at least 32 months and 4,000 hours of instruction in medical curriculum. Regular attendance shall be verified. Credit will not be given towards this requirement for instruction which was obtained in other than an accredited or unaccredited medical college, except for clinical rotations assigned under the auspices of the medical college in which the applicant was enrolled while he participated in the clinical rotations.

(ii) Seventy-two weeks of clinical rotations in an institution which has a graduate medical training program in the clinical area for which credit is sought, or, if the institution is not within the United States, is either a formal part of a medical college or has a formal affiliation with a medical college.

(3)] Satisfy the requirements in § 16.12 (relating to general qualifications for licenses and certificates).

* * * * *

[Pa.B. Doc. No. 04-1634. Filed for public inspection September 3, 2004, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Certified Registered Nurse Practitioner Program Approval

The State Board of Nursing (Board) proposes to add §§ 21.361–21.377 (relating to approval of certified registered nurse practitioner programs).

Effective Date

The proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under sections 6.1 and 8.1 of the Professional Nursing Law (act) (63 P.S. §§ 216.1 and 218.1).

Background and Need for the Proposed Rulemaking

In 1974, the General Assembly, in amendments to the act and the Medical Practice Act of 1974, authorized the Board and the State Board of Medical Education and Licensure (now the State Board of Medicine) to jointly promulgate regulations which would authorize qualified nurses to perform acts of medical diagnosis and prescribe medical, therapeutic or corrective measures.

In 1997, the Board and the State Board of Medicine jointly promulgated regulations granting certified registered nurse practitioner (CRNP) status to certain professional nurses (RNs). Section 21.271(b) (relating to currently licensed; course of study and experience; continuing education) and § 18.41(b) (relating to currently licensed; course of study and experience; continuing education) of the State Board of Medicine's regulations provide that "[t]he applicant [for certification] shall have successfully completed a course of study consisting

of at least 1 academic year in a program administered by nursing in an institution of higher education as approved by the Boards."

The act of December 9, 2002 (P.L. 1567, No. 206) (Act 206) amended section 2.1 of the act (63 P.S. § 212.1) to give the Board exclusive jurisdiction over CRNPs, including CRNP education. Prior to the enactment of Act 206, these regulations were approved for publication as proposed rulemaking by both the Board and the State Board of Medicine. Section 6.1 of the act authorizes the Board to establish standards for the operation and approval of nursing education programs for RNs. Section 8.1(b)(1)(i), added by Act 206, requires the Board to approve CRNP education programs.

Description of Proposed Rulemaking

In developing the proposed rulemaking, the Board utilized the regulatory scheme developed for approving schools of nursing for RNs. The following is a section by section analysis of the proposed additions pertaining to CRNP education.

§ 21.361. Approval of programs.

Section 21.361 provides that the Board will approve CRNP programs that require a bachelor's degree for admission and that culminate in a master's degree in nursing or postmaster's certificate. The requirement of a bachelor's degree for admission is consistent with criteria established by the National League of Nursing (League), the organization that provides standardized guidelines for nursing education throughout the United States. This requirement is also consistent with section 8.1(b) of the act, added by section 3 of Act 206, which provides for a 2-year period before all approved programs must culminate in a master's or postmaster's degree. Section 21.361 also provides that the Board will approve RN to MSN (master of science in nursing) and RN to ND (doctorate degree in nursing) and other experimental or accelerated programs that culminate with at least a master's degree. This provision serves to permit nontraditional CRNP programs for RNs who obtained their education through an associate degree or diploma program to become approved for CRNP education. Finally, § 21.361 provides that the goal of approved programs is to prepare the RN to function as a nurse practitioner.

§ 21.362. Annual reports and compliance reviews; list of approved programs.

Section 21.362 sets forth the requirements that approved programs complete an annual report and conduct a compliance review triennially. This requirement is consistent with the requirements imposed by the Board on other nursing education programs. See § 21.31 (relating to surveys; list of approved schools). In response to the information provided in the compliance review sent to the Board, the Board will send each program a written report of recommendations or requirements. Finally, § 21.362 provides that the Board will annually publish a list of approved programs. The same procedures are already established for other nursing education programs. See § 21.31.

§ 21.363. Approval process.

Section 21.363 details the two types of approval status granted to nursing education programs. Approved programs are initially placed on full approval status. A program may be placed on provisional approval if it is not in compliance with the Board's regulations. The same procedures are already established for other nursing education programs. See § 21.33 (relating to types of approval).

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

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State Board of Medicine
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-4917

DATE OF ADOPTION: _____

BY: _____

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)
Charles D. Hummer, Jr., M.D.

- [] Check if applicable
Copy not approved.
Objections attached.
- [] Check if applicable. No Attorney
General approval or
objection within 30 day
after submission.

DATE OF APPROVAL

BY: 
DAVID J. DEVRIES

NOV 15 2005
DATE OF APPROVAL

EXECUTIVE
(Deputy General Counsel
(Chief Counsel,
Independent Agency
~~Strike inapplicable~~
title)

**NOTICE OF FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE
49 PA. CODE, CHAPTER 17
LICENSURE OF MEDICAL DOCTORS**

Preamble

16A-4917

August 8, 2005

The State Board of Medicine (Board) hereby amends §§ 17.1, 17.2, 17.5 (relating to license without restriction; license without restriction – endorsement; and graduate license) and adds § 17.9 (relating to credentials verification service) to read as set forth in Annex A.

A. Effective Date

The amendments are effective upon publication as final-form rulemaking in the Pennsylvania Bulletin.

B. Statutory Authority

Section 8 of the Medical Practice Act of 1985 (act) (63 P.S. §422.8) authorizes the Board to promulgate standards for licensing consistent with the requirements of sections 27, 28 and 29 of the act (63 P.S. §§422.27, 422.28 and 422.29).

C. Background and Purpose

The Board has determined that its regulations pertaining to eligibility for a license to practice medicine of graduates of foreign medical schools and applicants for a license by endorsement are, in view of currently available alternatives, unduly restrictive and costly. The Board therefore amends §§ 17.1(b) and 17.5(c)(2) to delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of instruction and 72 weeks of clinical instruction. The Board's experience indicates that these requirements have become unduly restrictive to qualified applicants to the practice of medicine in the Commonwealth. Further, the Board has determined that the time and expense involved with verifying each credit hour and each clinical rotation exceeds the relative benefit. Few, if any, other jurisdictions have comparable requirements. Thus, the Commonwealth is placed at a competitive disadvantage in attracting qualified applicants.

The Board continues, but clarifies, the requirement that graduates of foreign medical colleges submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States. These changes provide the Board greater flexibility in ascertaining the qualifications of applicants without relying on an arbitrary hourly/weekly breakdown of foreign curricula.

Next, the Board amends § 17.2(c), pertaining to license by endorsement, to delete the examination as a mandatory requirement. The deletion of the mandatory requirement will provide the Board with greater discretion in assessing the qualifications for license by endorsement of physicians who have extensive practice experience. In enforcing this section, the Board has reviewed applications from eminently qualified physicians of high professional reputation. The Board has come to recognize that requiring these practitioners to take general licensing examinations poses an undue restriction to licensing these qualified practitioners.

The prior language in §17.2(d) described criteria that the Board viewed as equivalent to Education Commission for Foreign Medical Graduates (ECFMG) certification for physicians licensed prior to March 25, 1958. These regulations are no longer necessary because they would be applicable to individuals who would now be approximately 74 years of age. ECFMG certification has included steps 1 and 2 of the USMLE since June and September 1992, respectively. Prior certification by the ECFMG required the passage of one of several alternative examinations. At this point individuals who have prior ECFMG certification should also possess over 10 years of experience. Accordingly, the Board believes it appropriate for endorsement purposes to treat individuals with ECFMG certification as possessing the equivalent of passing scores on steps 1 and 2 of the USMLE. Accordingly, §17.2(d) is amended to recognize this equivalency.

The Board identified the criteria it has considered when reviewing applications for license by endorsement from individuals who otherwise are qualified to practice medicine but who have not taken a licensing examination recognized by the Board. This rulemaking codifies those criteria. Under the final-form rulemaking the Board may consider whether the applicant has a significant history in the practice of medicine, has recognized professional and academic achievement and credentials, and has obtained certification by a Board recognized specialty certification body.

The Board also will accept the Federation of State Medical Board's Credentials Verification Service (FCVS) as an optional mechanism for all applicants to document completion of education, training and examination requirements. The FCVS serves as a document depository and as a clearinghouse for applicants. Applicants who are seeking licensure must submit documentation demonstrating completion of medical education and clinical training. Applicants applying in more than one jurisdiction will have the option of submitting credentialing documents to the FCVS, which will verify the authenticity of those documents. Applicants who utilize the FCVS may save time and expense because their credentials will be verified once rather than multiple times.

D. Description of Amendments

The amendments to §§17.1(b) and 17.5(c)(2) delete the requirements that graduates of foreign medical schools demonstrate 32 months and 4,000 hours of instruction and 72 weeks of

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clinical instruction. These requirements are replaced with the requirement that graduates of foreign medical colleges submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the Country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States.

Section 17.2(c), pertaining to license by endorsement, is amended to delete the examination requirement as mandatory. Section 17.2(d) is amended to accept ECFMG certification as the equivalent of passing scores on steps 1 and 2 of the USMLE.

Section 17.2(e) is amended to identify the criteria the Board will consider in lieu of examination when reviewing applications for license by endorsement.

Section 17.9 has been added to indicate that applicants have the option of using the FCVS to authenticate and maintain records of their credentials.

E. Compliance with Executive Order 1996-1 the Regulatory Review Act and Public Comment

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board solicited input and suggestions from the regulated community and other parties who have identified themselves as interested in the Board's regulatory agenda. Proposed rulemaking was published on September 4, 2004 at 34 Pa. B. 4887. The Board entertained public comment for a period of 30 days during which time the Board received comments from the Pennsylvania Academy of Family Physicians and from the Federation of State Medical Boards of the United States, Inc. Both organizations supported the Board's proposed rulemaking. The Board received no negative public comments. Following the close of the public comment period, the Board also received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The following is a summary of those comments and the Board's response.

IRRC asked if the proposed amendments allow licenses without restriction and graduate licenses to be issued to applicants who cannot qualify under [the] existing regulation. The IRRC also asked why Board verification of the specific time period requirements under §§ 17.1(b) and 17.5(c) is no longer needed. Under the existing regulation, the Board's administrative staff verifies the specific number of hours of academic study and the specific number of weeks of clinical study in which the applicant participated. The Board's staff verifies this information directly with the source foreign medical colleges and teaching hospitals. The Commonwealth is, to the best of the Board's knowledge, the only state that does this. Over time the foreign medical

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colleges and teaching hospitals have become increasingly unable or unwilling to break down the attendance of their students with the level of specificity that the regulation requires. As a consequence, applicants who have completed a course of study that would be generally accepted in the United States cannot obtain a license in this Commonwealth based upon a review of the standard academic credentials available for Board staff review. Specifically, in regard to graduate training licenses, this either delays significantly or prevents the issuance of the license. As a further consequence, teaching hospitals in the Commonwealth are unable to fill graduate medical training residency positions, leading to vacancies and reduction of available care in teaching hospitals. These vacancies are likely to lead to increased demand on the available hospital staff. Vacancies in graduate medical programs also potentially impact the availability of future residency slots and may negatively impact the availability of federal funds that support graduate medical training in the Commonwealth.

IRRC also requested information about the Federation of State Medical Boards' Credentials Verification Service (FCVS). Detailed information on this service is available through the Federation's web site at www.fsmb.org. The FCVS is a document clearing house and authentication service. It was established in 1996 to provide a centralized, uniform process for state medical boards, as well as private and governmental entities, to obtain a verified, primary source record of a physician's core medical credentials. FCVS obtains primary source verification of medical education, postgraduate training, licensure examination history, board action history and identity. This repository of information allows an individual to establish a confidential, lifetime professional portfolio that can be forwarded at the individual's request to any interested party, including state medical boards, hospitals, managed care plans and professional societies. Without this rulemaking, the Commonwealth would remain one of only four states, along with Alaska, Arkansas and Nebraska, that do not recognize the FCVS. The Board, by this rulemaking, will allow applicants the option of using the FCVS to authenticate and maintain their credentials rather than requiring the applicant to obtain those documents separately from the original source for Board review.

In the proposed rulemaking the Board had determined to rely on ECFMG certification to support an application in lieu of verifying the completion of the 4,000 hours of academic and 72 weeks of clinical study. The HPLC questioned the wisdom of deleting the specific requirement of verification of 4,000 hours of academic and 72 weeks of clinical study. The HPLC also questioned whether the Board has statutory authority to rely solely on the ECFMG certification as a demonstration of graduation from medical college and completion of clinical study. The Board has authority under section 8 of the Medical Practice Act of 1985 (act) (63 P.S. §422.8) to promulgate standards for licensing consistent with the requirements of sections 27, 28 and 29 of the act (63 P.S. §§422.27, 422.28 and 422.29). Historically, the Board's authority to ascertain whether applicants who have graduated from international medical schools possess education and training has been well established. See section 5 of the Medical Education and Licensure Act of 1911 and section 6 of the Medical Practice Act of 1974. Moreover the Board has historically been permitted to use private standard setting bodies to aid in ascertaining the quality

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of education and training of its applicants. See sections 5 and 6(b) of the Medical Practice Act of 1974. The Board continues to possess these authorities under the current Act. See McKeesport Hospital v. Pennsylvania State Board of Medicine, 539 Pa. 384, 652 A.2d 827 (1995). Accordingly, the statutory amendments the HPLC suggests are unnecessary to further the intent of this rulemaking.

In response to the HPLC's concerns, the Board agrees that it is the Board's responsibility to evaluate the education credentials of applicants for licensure. Therefore the Board has modified the final-form rulemaking so as to continue, but clarify, the requirement that the applicant submit a diploma and transcript verified by a medical college listed in the International Medical Education Directory and chartered and recognized by the country in which it is situated for the provision of medical doctor education. The Board also requires that the applicant complete the equivalent of 4 academic years of medical education including 2 years in the study of the arts and sciences of medicine as generally recognized by the medical education community in the United States and 2 years of clinical study of the practice of medicine as generally recognized by the medical education community in the United States. In this way, the Board may continue to ascertain the quality of the applicant's education as compared to recognized standards as established by the Liaison Committee for Medical Education in the United States. In regard to the Committee's concern that the Board verify 4,000 discrete hours of academic study and 72 discrete weeks of clinical study, for the reasons stated above continuing this requirement is impracticable.

Because the Board has amended the final rulemaking to address the HPLC concern that the Board continue to evaluate the credentials of applicants as opposed to relying on ECFMG certification pertaining to the ECFMG verification process, it is not necessary to address the Committee's comments regarding the ECFMG certification process. The Board notes that the ECFMG, among other things, verifies the authenticity of source documents. In this regard they perform functions similar to the Board. It was not the Board's intent to suggest that ECFMG performs the identical functions of the Board.

Lastly, although supportive of the Board's efforts in regard to identifying the criteria the Board uses in licensing physicians by endorsement, the HPLC provided editorial suggestions to clarify that portion of the rulemaking. The Board has adopted the HPLC's editorial suggestions in part, but has declined to rewrite the language in its entirety because it believes the suggestions adopted sufficiently clarify the rulemaking.

F. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivision or the private sector.

G. Sunset Date

The board continuously monitors its regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 23, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa. B. 4887 to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act IRRC, the HPLC and the SCP/PLC, were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____ the final-form regulation was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

I. Contact Person

Further information may be obtained by contacting Gerald S. Smith, Counsel, State Board of Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649 or gerasmith@state.pa.us.

J. Findings

The State Board of Medicine finds that:

(1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 34 Pa. B. 4887.

Preamble

16A-4917

August 8, 2005

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this Preamble.

K. Order

The State Board of Medicine, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 17, are amended by amending §§17.1, 17.2, and 17.5 and by adding §17.9 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

Charles D. Hummer, Jr., M.D.
Chairperson

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 17. STATE BOARD OF MEDICINE-MEDICAL DOCTORS

Subchapter A. LICENSURE OF MEDICAL DOCTORS

§ 17.1. License without restriction.

(a) Except as provided in [subsection (b) and] § 17.2 (relating to license without restriction--endorsement), to secure a license without restriction an applicant shall:

* * * * *

(b) {An applicant who is a graduate of an unaccredited medical college, who files an application for a license ~~after December 31, 1988~~--the application is not considered filed with the Board until it is complete--shall, in addition to satisfying the requirements in subsection (a), ~~have completed:~~ SUBMIT A DIPLOMA AND TRANSCRIPT VERIFIED BY A MEDICAL COLLEGE LISTED IN THE INTERNATIONAL MEDICAL EDUCATION DIRECTORY AND CHARTERED AND RECOGNIZED BY THE COUNTRY IN WHICH IT IS SITUATED FOR THE PROVISION OF MEDICAL DOCTOR EDUCATION.

THE TRANSCRIPT SHALL IDENTIFY THE SUCCESSFUL COMPLETION OF THE EQUIVALENT OF 4 ACADEMIC YEARS OF MEDICAL EDUCATION INCLUDING 2 ACADEMIC YEARS IN THE STUDY OF THE ARTS AND SCIENCES OF MEDICINE GENERALLY RECOGNIZED BY THE MEDICAL EDUCATION COMMUNITY IN THE UNITED STATES AND 2 ACADEMIC YEARS OF CLINICAL STUDY OF THE PRACTICE OF MEDICINE AS GENERALLY RECOGNIZED BY THE MEDICAL EDUCATION COMMUNITY IN THE UNITED STATES.

[(1) Four academic years totaling at least 32 months and 4,000 hours of instruction in medical curriculum. Regular attendance shall be verified. Credit will not be given toward this requirement for instruction obtained in other than an accredited or unaccredited medical college, except for clinical rotations assigned under the auspices of the medical college in which the applicant was enrolled while participating in the clinical rotations.

(2) Seventy-two weeks of clinical rotations in an institution which has a graduate medical training program in the clinical area for which credit is sought, or, if the institution is not within the United States, is either a part of a medical college or has a formal affiliation with a medical college.]

~~Applicants may use the Federation's Credentials Verification Service (FCVS) to verify their credentials to the Board.~~

§ 17.2. License without restriction--endorsement.

* * * * *

(c) *License examination.* In evaluating the qualifications of an applicant who seeks a license without restriction on the basis of endorsement, the Board will accept [no substitute for] a passing score on a licensing examination acceptable to the Board. [See § 17.1(a)(1).] If the examination was not taken in English, but is otherwise acceptable, and a passing score was secured, the Board will accept the examination result if the applicant has also secured a passing score [of 550] on the Test of English as a Foreign Language (TOEFL) [or ECFMG certification].

(d) *ECFMG certification.* [The ECFMG established a certification mechanism which became effective on March 25, 1958. In part, the ECFMG certification process is designed to test whether a graduate of an unaccredited medical college has acquired sufficient medical knowledge to participate in graduate medical training in United States hospitals, and whether a person who has graduated from an unaccredited medical college and whose principal language is not English has mastered the English language so that the person has achieved the communication skills necessary to participate in graduate medical training in United States hospitals. The Board recognizes that many medical doctors who graduated from unaccredited medical colleges prior to the establishment of the ECFMG certification process and who have not received ECFMG certification have, nevertheless, been licensed as medical doctors prior to March 25, 1958, in this Commonwealth and in other states, territories and possessions of the United

States. If, prior to March 25, 1958, a graduate of an unaccredited medical college secured a license to practice medicine and surgery without restriction in any of the states, territories or possessions of the United States, and has successfully completed 3 years of graduate medical training, the Board will endorse these qualifications as equivalent to the ECFMG certification. Additionally, the Board will endorse the combination of the successful completion of a fifth pathway program and an ECFMG certification examination as equivalent to the ECFMG certification.] For purposes of endorsement, a graduate from an unaccredited medical school who has obtained certification by the ECFMG shall be deemed to have the equivalent of a passing score on steps 1 and 2 of the USMLE.

(e) The Board may, IN LIEU OF THE EXAMINATION REQUIREMENT PROVIDED FOR IN SUBSECTION (c), consider ~~years of experience~~ WHETHER THE APPLICANT HAS A SIGNIFICANT HISTORY IN THE PRACTICE OF MEDICINE, HAS RECOGNIZED professional and academic achievement and credentials, and HAS OBTAINED certification by a Board recognized specialty certification body ~~in lieu of the examination requirement provided in subsection (c)~~.

§ 17.5. Graduate license.

* * * * *

(c) Additional requirements for securing a graduate license are that the applicant shall satisfy the following:

* * * * *

(2) ~~[Have completed, if~~ IF the applicant is a graduate of an unaccredited medical college or satisfies the requirements of subsection (b)(2), and files an application for a graduate license ~~after December 31, 1988--the application is not considered filed with the Board until it is complete--the following:~~ APPLICANT SHALL SUBMIT A DIPLOMA AND TRANSCRIPT VERIFIED BY A MEDICAL COLLEGE LISTED IN THE INTERNATIONAL MEDICAL EDUCATION DIRECTORY AND CHARTERED AND RECOGNIZED BY THE COUNTRY IN WHICH IT IS SITUATED FOR THE PROVISION OF MEDICAL DOCTOR EDUCATION. THE TRANSCRIPT SHALL IDENTIFY THE SUCCESSFUL COMPLETION OF THE EQUIVALENT OF 4 ACADEMIC YEARS OF MEDICAL EDUCATION INCLUDING 2 ACADEMIC YEARS IN THE STUDY OF THE ARTS AND SCIENCES OF MEDICINE GENERALLY RECOGNIZED BY THE MEDICAL EDUCATION COMMUNITY IN THE UNITED STATES AND 2 ACADEMIC YEARS OF CLINICAL STUDY OF THE PRACTICE OF MEDICINE AS GENERALLY RECOGNIZED BY THE MEDICAL EDUCATION COMMUNITY IN THE UNITED STATES.

[(i) Four academic years totaling at least 32 months and 4,000 hours of instruction in medical curriculum. Regular attendance shall be verified. Credit will not be given towards this requirement for instruction which was obtained in other than an accredited or unaccredited medical college, except for clinical

rotations assigned under the auspices of the medical college in which the applicant was enrolled while he participated in the clinical rotations.

(ii) Seventy-two weeks of clinical rotations in an institution which has a graduate medical training program in the clinical area for which credit is sought, or, if the institution is not within the United States, is either a formal part of a medical college or has a formal affiliation with a medical college.]

(3)} Satisfy the requirements in § 16.12 (relating to general qualifications for licenses and certificates).

* * * * *

§17.9. CREDENTIALS VERIFICATION SERVICE.

APPLICANTS MAY USE THE FEDERATION OF STATE MEDICAL BOARDS CREDENTIALS VERIFICATION SERVICE (FCVS) TO VERIFY THE AUTHENTICITY OF THEIR DIPLOMAS, TRANSCRIPTS, EXAMINATION SCORES, AND OTHER DOCUMENTATION HELD BY THE FCVS.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1400

November 28, 2005

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Medicine
16A-4917: Licensure of Medical Doctors

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Medicine pertaining to licensure of medical doctors.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, reading "Charles D. Hummer, Jr. MD".

Charles D. Hummer, Jr., Chairperson
State Board of Medicine

CDH/SIH:sb

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Gerald S. Smith, Senior Counsel in Charge
Department of State
Sabina I. Howell, Counsel
State Board of Medicine
State Board of Medicine

Commentators for 16A-4917, State Board of Medicine

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James N. Thompson, MD, President and Chief Executive Officer
Federation of State Medical Boards of the United States, Inc.
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Dallas, TX 75261-9850

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**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-4917

SUBJECT: BPOA- State Board of Medicine: Licensure of Medical Doctors

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

11/28/05

Nancy Shaul

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

11/28/05

Mary Walmer

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

11/28/05

St. Schneet

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

November 16, 2005