

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <p style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">RECEIVED</p>
<p>(1) Agency: <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine</b></p>		<p>OCT 12 2022</p>
<p>(2) Agency Number: 16A Identification Number: 4948</p>		<p>Independent Regulatory Review Commission IRRC Number: 3313</p>
<p>(3) PA Code Cite: 49 Pa. Code §§ 16.1, 17.11, 17.12 and 17.12c</p>		
<p>(4) Short Title: Examinations</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Dana M. Wucinski, Board Counsel, State Board of Medicine, Department of State, P.O. Box 69523, Harrisburg, PA 17106-5923 (phone 717-783-7200) (fax 787-0251); <a href="mailto:dwucinski@pa.gov">dwucinski@pa.gov</a>.</p> <p>Secondary Contact: Jacqueline A. Wolfgang, Senior Regulatory Counsel, P.O. Box 69523, Harrisburg, PA 17106-5923 (phone 717-783-7200) (fax 787-0251) <a href="mailto:jawolfgang@pa.gov">jawolfgang@pa.gov</a>.</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p style="margin-left: 20px;"> <input type="checkbox"/> Proposed Regulation  <input checked="" type="checkbox"/> Final Regulation  <input type="checkbox"/> Final Omitted Regulation         </p>		<p style="margin-left: 20px;"> <input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General         </p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The United States Medical Licensing Examination (USMLE) is the examination co-sponsored and administered by the Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME). USMLE was created in response to the need for one path to medical licensure for allopathic physicians in the United States. Before USMLE, multiple examinations (the NBME Parts Examination and the Federation Licensing Examination (FLEX)) offered paths to medical licensure. It was desirable to create one examination system accepted in every state, to ensure that all licensed medical doctors (MDs) pass the same assessment standards regardless of where individuals received education and training. Today, all State medical boards in the United States utilize the USMLE. USMLE is used for licensure of graduates of accredited MD-granting medical schools in the United States and graduates of International Medical Schools recognized by the Education Commission for Foreign Medical Graduates (ECFMG).</p> <p>To ensure that all licensed MDs have passed the same assessment standards, following the same rules, the Board has adopted the USMLE. The Board has determined that accepting FSMB and NBME criteria for passing the USMLE will ensure that Pennsylvania examination standards are consistent with National standards. Thus, the Board relies on the FSMB and NBME established USMLE eligibility requirements,</p>		

including the order in which the steps may be taken, the number of attempts permitted for any one step of USMLE, the time required in between attempts and the score necessary to pass each step.

In addition to updating its regulations to conform to the current National examination for medical licensure, the Board also updates its examinations provisions in this rulemaking to ensure that the regulations appropriately reflect examination standards for those former examinations so that MDs who have taken the older examinations or combinations of the older examinations may apply for licensure or participate in graduate medical training in this Commonwealth.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Section 24(a) of the Medical Practice Act (act) (63 P.S. § 422.24(a)) gives the Board authority to require an applicant to take and pass an examination to the satisfaction of the Board. Section 24(c) of the act requires that all written, oral and practice examinations shall be prepared and administered by a qualified and approved professional testing organization. Under section 24(d) of the act, when the Board accepts an examination given by an examination agency, the Board may establish the criteria for passing or may accept the criteria for passing established by the examination agency.

Section 8 of the act (63 P.S. § 422.8) authorizes the Board to adopt such regulations as are reasonably necessary to carry out the purposes of the act, including the licensure of qualified individuals as physicians.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, the regulation is not mandated by any federal or state law or court order or regulation. However, the regulation is necessary to conform the Board's existing regulations to National standards.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This rulemaking is required to conform to the Board's regulations to National standards and to reflect the current examination (USMLE) accepted by the Board. The rulemaking also updates and clarifies requirements and standards for examinations that are no longer administered but are still valid examinations for licensure.

This rulemaking will benefit all medical doctor applicants in that examination standards will be clearly set forth in the Board's regulations. The rulemaking accepts FSMB and NBME's criteria for passing the USMLE. The rulemaking relies on FSMB and NBME for the individual USMLE eligibility requirements, including the order in which the steps may be taken, the number of attempts permitted for any one step of USMLE, the time required in between attempts and the score necessary to pass each step. The Board will not have to amend its regulations when USMLE standards are modified or updated. Instead of amending the Board's regulations and definitions and having the continuing need to monitor and amend regulatory definitions that set forth details of the Board adopted examination, the rulemaking will automatically

reflect updated USMLE standards. This will be beneficial to the Board and to applicants because examination standards will be standardized, clarified and automatically updated.

(11) 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 regulations.

No. The USMLE is the licensing examination for medical doctors used in all 50 states.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The USMLE standards are identical in all 50 states. This rulemaking will ensure that USMLE standards are current and up to date. Having current and up to date regulations can only improve Pennsylvania's ability to compete with other states.

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

The rulemaking will not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Board discusses its regulatory proposals at regularly scheduled public meetings of the Board. Representatives of the professional associations representing the regulated community routinely attend those meetings. In drafting the proposal, the Board solicited comments from stakeholders and interested parties by providing an exposure draft of the regulation to stakeholders on February 25, 2020. The Board did not receive any comments from stakeholders.

The Board published notice of proposed rulemaking at 51 *Pa.B.* 6042 (September 18, 2021), for 30 days of public comment. The Board did not receive any public comments and IRRC did not submit and objections, comments or recommendations. The Board approved the final-form rulemaking at its September 13, 2022, board meeting.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

According to the Small Business Administration (SBA), there are approximately 1,095,907 businesses in Pennsylvania; of which 1,091,524 are small businesses. Of the 1,091,524 small businesses, 226,483 are small employers (those with fewer than 500 employees) and the remaining 865,041 are non-employers. Thus, the majority of businesses in Pennsylvania are considered small businesses. Applicants of the Board will be affected by the regulation, including those that are or work for small businesses. On an annual basis, the Board receives approximately 3,500 applications for a license to practice as a medical physician and surgeon. The Pennsylvania Department of Labor and Industry reports that in 2020 the majority of physicians work in offices of physicians and in hospitals. Others work in academia and in government.

For the businesses listed above, small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where physicians may work, a small business under NAICS Code 622110 (General Medical and Surgical Hospitals) are considered small businesses if they have \$41.5 million or less in average annual receipts; offices of physicians (NAICS code 621111) are considered small businesses if they have \$12 million or less in average annual receipts; educational services including colleges, universities and professional schools (NAICS code 611310) are considered small businesses if they have \$30 million or less in average annual receipts.

Physicians who work in offices of physicians would likely be considered small businesses under these thresholds. Many of the hospitals and health systems in Pennsylvania would not be considered small businesses under these thresholds. The Board does not collect information on the size of the businesses where its applicants or licensees are employed but believes that many applicants and licensees would be employed by hospitals and health systems in Pennsylvania. For purposes of determining the economic impact on small businesses, the Board also assumes that many of its applicants would work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

Regardless of where applicants work, this rulemaking would not have a negative fiscal impact on small businesses or any other business. This regulation will positively impact businesses in Pennsylvania because it clarifies examination standards and ensures that examination standards are standardized and automatically updated.

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(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

All individuals who are applying for initial licensure as a medical physician and surgeon in this Commonwealth must comply with examination standards, including the USMLE testing policies. The Board receives approximately 3,500 applications each year for initial licensure to practice as a medical physician and surgeon.

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(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Board does not anticipate any financial, economic, or social impact of the regulation on individuals, small businesses, businesses and labor communities or other public and private organizations. This rulemaking will positively impact individuals, small businesses, businesses and labor communities and other public and private organizations in Pennsylvania because it would clarify examination standards and will ensure that examination standards are standardized and automatically updated.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no costs or adverse effects to the regulation.

(19) 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. Explain how the dollar estimates were derived.

There are neither costs nor savings to the regulated community associated with this rulemaking.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are neither costs nor savings to local governments associated with this rulemaking.

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

There are no costs or savings to State government with this rulemaking. Additionally, operations of the Board are supported entirely from fees paid by licensees, so there are no costs to state government from the Board's operations.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There are no legal, accounting or consulting procedures related to the rulemaking.

(22a) Are forms required for implementation of the regulation?

No forms are required for implementation of the regulation.

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.

N/A

(23) 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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
<b>COSTS:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3 2018-2019 (actual)	FY-2 2019-2020 (actual)	FY-1 2020-2021 (estimated)	Current FY (budgeted)
State Board of Medicine	\$8,320,597.59	\$7,799,744.70	\$7,145,000.00	\$7,145,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The regulation has no impact on small businesses.

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

The Board has not identified any particular needs or affected groups or persons which would require special provisions. The USMLE is the examination required for medical doctor licensure across the United States.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Because these are National standards, no alternative provisions were considered.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no compliance or reporting requirements for small businesses. Small businesses could not be exempt from the regulation.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies or references.

(29) Include a schedule for review of the regulation including:

- |  |   |
|--|---|
| A. The date by which the agency must receive public comments:                        | <u>30 days</u>  |
| B. The date or dates on which public meetings or hearings will be held:              | <u>The Board meets in public session 10 times a year.</u> |
| C. The expected date of delivery of the final-form regulation:                       | <u>Summer 2022</u>  |
| D. The expected effective date of the final-form regulation:                         | <u>Upon final publication</u>                             |
| E. The date by which compliance with the final-form regulation will be required:     | <u>Upon final publication</u>                             |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u>  |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, typically in the morning of the board meetings. The Board is scheduled to meet in 2022 on the

following dates: October 25 and December 13. More information can be found on the Board's website ([www.dos.pa.gov/medicine](http://www.dos.pa.gov/medicine)).

CDL-1

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

OCT 12 2022

**Independent Regulatory  
Review Commission**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>State Board of Medicine</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-4948</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Mark B. Woodland</u></p> <p>Mark B. Woodland, MS, MD Board Chair</p> <p>TITLE _____ (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u> (Deputy General Counsel) (<del>Chief Counsel, Independent Agency</del>) (Strike inapplicable title)</p> <p><u>October 3, 2022</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**FINAL RULEMAKING**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**STATE BOARD OF MEDICINE**

**49 PA. CODE CHAPTERS 16 and 17**

**§§ 16.1, 17.11-17.12c**

**EXAMINATIONS**

The State Board of Medicine (Board) hereby amends §§ 16.1, 17.11, 17.12 and 17.12c, to read as set forth in Annex A.

**Effective Date**

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

**Statutory Authority**

Section 24(a) of the Medical Practice Act (act) (63 P.S. § 422.24(a)) gives the Board authority to require an applicant to take and pass an examination to the satisfaction of the Board. Section 24(c) of the act requires that all written, oral and practice examinations shall be prepared and administered by a qualified and approved professional testing organization. Under section 24(d) of the act, when the Board accepts an examination given by an examination agency, the Board may establish the criteria for passing or accept the criteria for passing established by the examination agency.

Section 8 of the act (63 P.S. § 422.8) authorizes the Board to adopt such regulations as are reasonably necessary to carry out the purposes of the act, including the licensure of qualified individuals as physicians.

**Background and Need for Amendments**

The United States Medical Licensing Examination (USMLE) is the examination co-sponsored and administered by the Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME). USMLE was created in response to the need for one path to medical licensure for allopathic physicians in the United States. Before USMLE, multiple examinations (the NBME Parts Examination and the Federation Licensing Examination [FLEX]) offered paths to medical licensure. It was desirable to create one examination system accepted in every state, to ensure that all licensed medical doctors (MD) pass the same assessment standards regardless of where individuals received education and training. Today, all state medical boards in the United States utilize the USMLE. USMLE is used for licensure of graduates of accredited MD-granting medical schools in the United States and graduates of International Medical Schools recognized by the Education Commission for Foreign Medical Graduates (ECFMG).

To ensure that all licensed medical doctors have passed the same assessment standards, following the same rules, the Board intends to rely on FSMB and NBME to determine individual USMLE standards, including the order in which the steps may be taken, the number of attempts permitted for any one step of USMLE, and the time required between attempts.

In addition to updating its regulations to conform to the current National examination for medical licensure, the Board also considered existing regulatory provisions related to former medical licensure examinations and determined that some updates were necessary. While the Board's existing regulations refer to examinations that are no longer administered, the Board

updates those provisions to ensure that the regulations appropriately reflect examination standards for those former examinations so that MDs who have taken older examinations or combinations of the older examinations may apply for licensure or participate in graduate medical training in this Commonwealth.

### **Summary and Response to Comments**

Notice of the proposed rulemaking was published at 51 Pa.B. 6042 (September 18, 2021). Publication was followed by a 30-day public comment period during which the Board received no public comments. Additionally, there were no comments received from Independent Regulatory Review Commission (IRRC) other than to say that they have no objections, comments, or recommendations to offer. IRRC further advised that if the final form rulemaking is delivered without revisions, and the committees do not take any action, it will be deemed approved. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not submit comments.

### **Fiscal Impact and Paperwork Requirements**

The regulation will not have any fiscal impact on licenses, the Board, or the Commonwealth, nor is any additional paperwork anticipated.

### **Sunset Date**

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

### **Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 12, 2022, the Board submitted a copy of this 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 (SCP/PLC), and the House Professional Licensure Committee (HPLC). A copy of this material is available to the public upon request.

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 made no revisions based on a lack of comments received from the public, IRRC, the HPLC and the SCP/PLC.

Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on \_\_\_\_\_, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_ and approved the final-form rulemaking.

**Additional Information**

Additional information may be obtained by writing to Jasmira Hunter, Board Administrator, State Board of Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, [ST-MEDICINE@pa.gov](mailto:ST-MEDICINE@pa.gov).

**Findings**

The State Board of Medicine finds that:

- (1) Public notice of intention to adopt a regulation at 49 Pa. Code, Chapters 16 and 17, was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law and no comments were received.
- (3) No amendments were made to this final-form rulemaking and therefore the final-form rulemaking does not enlarge the original purpose of the proposed rulemaking published at 51 Pa.B. 6042.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the act.

**Order**

The Board therefore ORDERS that:

- (a) The regulations of the State Board of Medicine, 49 Pa. Code, Chapters 16 and 17, are amended to read as set forth in Annex A.
- (b) The Board shall submit a copy of the final-form regulation to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall submit the final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.
- (d) The Board shall certify the final-form regulation and shall deposit it with the Legislative Reference Bureau as required by law.
- (e) The regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

16A-4948  
Final Preamble – Examinations  
July 5, 2022

Mark B. Woodland, M.S., M.D.  
Chairperson  
State Board of Medicine

**16A-4948: Examinations  
List of Public Commentators**

**No Comments Received**

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS**

**Subchapter A. BASIC DEFINITIONS AND INFORMATION**

**§ 16.1. Definitions.**

The following words and terms, when used in this chapter and Chapters 17 and 18 (relating to State Board of Medicine-medical doctors; and State Board of Medicine-practitioners other than medical doctors), have the following meanings, unless the context clearly indicates otherwise:

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ECFMG—The Educational Commission for Foreign Medical Graduates.

*FLEX*—[This examination provided by the Federation of State Medical Boards of the United States, Inc., comprised of FLEX I and FLEX II, was used by the Board to test applicants for a license to practice medicine and surgery without restriction. This uniform examination was administered simultaneously in most of the states, territories and possessions of the United States.]  
The Federation Licensing Examination, which was used by the Board to test applicants for a license to practice medicine and surgery without restriction. The examination was comprised of two components—FLEX I and FLEX II. The last regular administration of FLEX I and FLEX II was in December 1993.

*[FLEX I—*The examination component of the FLEX designed to evaluate measurable aspects of knowledge and understanding of basic and clinical science principles and mechanisms underlying disease and modes of therapy. This component will be last regularly administered in December 1993.

*FLEX II—*The examination component of the FLEX designed to measure a core of competence involved in the diagnosis and management of selected clinical problems frequently encountered by a physician engaged in the independent practice of medicine. This component will be last regularly administered in December 1993.]

*Federation—*The Federation of State Medical Boards of the United States, Inc.

\* \* \* \* \*

*Treatment regimen—*The provision of care and practice of a component of the healing arts by a Board-regulated practitioner.

*USMLE—*The United States Medical Licensing Examination, a single, uniform examination for medical licensure consisting of three steps. The examination is provided by the Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME) and replaces the FLEX and the NBME National Boards Parts examination.

*[USMLE, Step 1—*Assesses whether an examinee understands and can apply key concepts of basic biomedical science, with an emphasis on principles and mechanisms of health, disease and modes of therapy.

*USMLE, Step 2—*Assesses whether an examinee possesses the medical knowledge and understanding of clinical science considered essential for the provision of patient care under supervision, including emphasis on health promotion and disease prevention.

*USMLE, Step 3*—Assesses whether an examinee possesses the medical knowledge and understanding of biomedical and clinical science considered essential for the unsupervised practice of medicine.]

*Unaccredited medical college*—An institution of higher learning which provides courses in the arts and sciences of medicine and related subjects, is empowered to grant professional and academic degrees in medicine, is listed by the World Health Organization or is otherwise recognized as a medical college by the country in which it is situated, and is not accredited by an accrediting body recognized by the Board.

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## CHAPTER 17. STATE BOARD OF MEDICINE—MEDICAL DOCTORS

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### Subchapter B. EXAMINATION INFORMATION

#### § 17.11. Examination information for license without restriction.

(a) *FLEX*. [This is the examination offered by the Board for a license without restriction. The last regular administration of FLEX I and FLEX II was December of 1993. The examination is comprised of two components—FLEX I and FLEX II. Both components are given every December and June. FLEX I may be taken after graduating from a medical college but, beginning July 1, 1986, shall be passed prior to commencing a second-year level of graduate medical training if the medical doctor has not already passed Parts I and II of the National Boards or a licensing examination acceptable to the Board under § 17.1(a)(1)(iii), (viii) and (ix) (relating to license without restriction), or secured a license without restriction in this Commonwealth or an equivalent

license issued by a state, territory or possession of the United States or the Dominion of Canada. FLEX II may be taken after graduating from a medical college but, for a medical doctor to begin a third-year level of graduate medical training he shall first pass FLEX I and FLEX II or a licensing examination acceptable to the Board under § 17.1(a)(1)(iii), (viii) and (ix), or have secured a license without restriction in this Commonwealth or an equivalent license issued by another state, territory or possession of the United States or the Dominion of Canada. Both FLEX I and FLEX II may be taken by a student in a medical college if the student is in the last semester or a similar school term, the dean of the medical college certifies to the Board that the student's graduation is imminent and the semester or similar school term will conclude shortly after the administration of FLEX I and FLEX II.] A passing score on [this examination] FLEX I and FLEX II as outlined in § 17.1(a)(1)(ii) (relating to license without restriction) satisfies the examination requirement for a license without restriction.

(b) *Licensing examination of Federation from June 1968 through December 1984.* [This examination is the forerunner of the present FLEX.] This three-part examination, also called the FLEX, is the forerunner of the two-component FLEX examination in subsection (a). A passing score on this three-part examination, as outlined in § 17.1 (a)(1)(iii), satisfies the examination requirement for a license without restriction. [This examination is no longer offered as a licensing examination by the Board. A passing score on this examination shall have been achieved in an individual attempt, that is, a passing score cannot be achieved by combining scores received on separate parts of the examination obtained in more than one examination attempt.]

(c) *National Boards*. This examination comprised of Parts I, II and III was given in most accredited medical colleges. A passing score on this examination satisfies the examination requirement for a license without restriction.

(d) *USMLE*. This examination is a uniform examination for licensure which replaces the National Boards Parts I, II and III and FLEX I and FLEX II. [Each step is given twice a year. To be eligible for Step 1 or 2 of the examination, an individual shall be a medical student officially enrolled in, or a graduate of, an accredited medical school or a graduate of an unaccredited medical school. Steps 1 and 2 may be taken in any sequence. To be eligible for Step 3 of the USMLE, the individual shall have obtained a medical doctor degree or equivalent, shall have achieved a passing score on both Step 1 and Step 2 or equivalent, and shall be enrolled in a graduate medical training program. Additionally, a graduate of an unaccredited school shall be currently certified by ECFMG or shall have successfully completed a “Fifth Pathway” program. All Steps of the examination shall be completed within 7 years.] Steps 1, 2 and 3 of USMLE are given throughout the year at times and places designated by FSMB and NBME. USMLE eligibility requirements for each step or step component of the USMLE are jointly set by FSMB and NBME. A passing score on [this examination] all three steps of USMLE, as determined by FSMB and NBME and as outlined in § 17.1(a)(1)(i). [this examination] satisfies the examination requirement for a license without restriction.

(e) *Examination of the Medical Council of Canada*. This is an examination offered in Canada which has been adopted as a licensing examination in most of the provinces of Canada. A passing score on this examination, as determined by the Medical Council of Canada, satisfies the

examination requirement for a license without restriction if the examination was taken in English in or after May 1970.

(f) *State Board Examination.* This is an examination for a license to practice medicine and surgery without restriction, other than USMLE, FLEX or the forerunner of FLEX, which is used by a licensing authority in another state, territory or possession of the United States. A passing score on this examination, as determined by the licensing authority in the other jurisdiction, satisfies the examination requirement for a license without restriction if the examination was taken in English prior to December 1973.

**§ 17.12. [Failure on FLEX I or FLEX II.] Reserved.**

[(a) *Retaking examination.* An individual who fails either FLEX I or FLEX II is permitted to retake that component of the FLEX in this Commonwealth after the expiration of 6 months and within 2 years from the prior examination date.

(b) *Repeating year of graduate medical training.* If an individual fails to secure a passing grade on FLEX I in a second attempt, the individual shall repeat a year of graduate medical training at a first-year level before retaking FLEX I in this Commonwealth. If the individual fails to secure a passing grade on FLEX II in a second attempt, the individual shall repeat a year of graduate medical training at a first or second-year level before retaking FLEX II in this Commonwealth.

(c) *Awaiting examination results.* Effective July 1, 1986, if an individual scheduled to go into a second-year level of graduate medical training is awaiting the FLEX I score, the individual may not begin training at a second-year level until the individual has notified the Board that FLEX I

has been passed, and the Board has issued the appropriate license, but may continue to train at a first-year level until that time, if the individual has renewed the first-year level license. An individual scheduled to go into a third-year level of graduate medical training who is awaiting the FLEX II score, may not begin training at a third-year level until the individual has notified the Board that FLEX II has been passed, and the Board has issued the appropriate license, but may continue to train at a first or second-year level until that time, if the individual has renewed the first or second-year level license.]

**§ 17.12c. [Failure on USMLE.] Reserved.**

*[(a) Retaking examination.* An individual is permitted to retake any component of the USMLE. Steps 1, 2 and 3 shall be completed within a 7-year period. Because Steps 1 and 2 may be taken in any sequence, the 7-year period begins with the passage of the first step taken.

*(b) Repeating year of graduate medical training.* If an individual fails to secure a passing score on Step 3 in a third attempt, the individual shall repeat a year of graduate medical training at a first or second-year level before retaking Step 3.

*(c) Awaiting examination results.* If an individual scheduled to go into a second-year level of graduate medical training is awaiting examination scores, the individual may not begin training at a second-year level, but may continue to train at a first-year level, if the individual has renewed the first-year level license, until the individual has notified the Board that Steps 1 and 2 have been passed and the Board has issued the appropriate license. If an individual scheduled to go into a third-year level of graduate medical training is awaiting examination scores, the individual may not begin training at a third-year level, but may continue to train at a first or second-year level, if

the individual has renewed the first or second-year level license, until the individual has notified the Board that Step 3 has been passed and the Board has issued the appropriate license.]



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

October 12, 2022

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Board of Medicine  
16A-4948: Examinations

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Medicine pertaining to Examinations.

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, appearing to read "Mark B. Woodland".

Mark B. Woodland, MS, MD, Chairperson  
State Board of Medicine

MBW/dmw  
Enclosure

cc: Arion R. Claggett, Acting Commissioner of Professional and Occupational Affairs  
K. Kalonji Johnson, Deputy Secretary of Regulatory Programs  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State  
Dana M. Wucinski, Board Counsel, State Board of Medicine  
State Board of Medicine

RECEIVED

OCT 12 2022

**From:** [Blauch, Tammy](#)  
**To:** [Christman, William](#); [Smeltz, Jennifer](#)  
**Subject:** RE: DELIVERY: Regulation 16A-4948 (Tomlinson)  
**Date:** Wednesday, October 12, 2022 10:30:31 AM

Independent Regulatory  
Review Commission

Confirming receipt.  
Thank you

*Tammy Blauch*  
Executive Secretary  
Office of Senator Robert M. Tomlinson  
Room 286 Main Capitol Building  
Harrisburg, PA 17120  
(717)-787-5072  
Fax: (717)772-2991  
[tblauch@pasen.gov](mailto:tblauch@pasen.gov)

**From:** Christman, William <[wchristman@pa.gov](mailto:wchristman@pa.gov)>  
**Sent:** Wednesday, October 12, 2022 9:52 AM  
**To:** Blauch, Tammy <[tblauch@pasen.gov](mailto:tblauch@pasen.gov)>; Smeltz, Jennifer <[jmsmeltz@pasen.gov](mailto:jmsmeltz@pasen.gov)>  
**Subject:** DELIVERY: Regulation 16A-4948 (Tomlinson)  
**Importance:** High

Ⓞ CAUTION : External Email Ⓞ

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.**

Please be advised that the State Board of Medicine is delivering the following final rulemaking:

- 16A-4948: Examinations

**William Christman** | Legal Assistant  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg PA 17106 - 9523  
Phone: 717.783.7200 | Fax: 717.787.0251  
[wchristman@pa.gov](mailto:wchristman@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)

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**From:** [Jennifer Weaver](#)  
**To:** [Christman, William](#); [Nicole Sidle](#); [Emily Hackman](#)  
**Subject:** RE: DELIVERY: Regulation 16A-4948 (Hickernell)  
**Date:** Wednesday, October 12, 2022 9:57:08 AM

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Received, thank you!

**Jennifer Weaver**

Administrative Assistant II

David S. Hickernell, Majority Chairman

Professional Licensure Committee

98th Legislative District

Room 43, East Wing

Harrisburg, PA 17120-2098

717-783-2076

Representative Mindy Fee

37th Legislative District

Room 47, East Wing

Harrisburg, PA 17120-2037

717-772-5290

**From:** Christman, William <[wchristman@pa.gov](mailto:wchristman@pa.gov)>  
**Sent:** Wednesday, October 12, 2022 9:51 AM  
**To:** Jennifer Weaver <[jweaver@pahousegop.com](mailto:jweaver@pahousegop.com)>; Nicole Sidle <[nsidle@pahousegop.com](mailto:nsidle@pahousegop.com)>; Emily Hackman <[eepler@pahousegop.com](mailto:eepler@pahousegop.com)>  
**Subject:** DELIVERY: Regulation 16A-4948 (Hickernell)  
**Importance:** High

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- 16A-4948: Examinations

**William Christman** | Legal Assistant  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg PA 17106 - 9523  
Phone: 717.783.7200 | Fax: 717.787.0251  
[wchristman@pa.gov](mailto:wchristman@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)

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OCT 12 2022

**From:** Orchard, Kari L.  
**To:** Christman, William; Barton, Jamie  
**Subject:** Re: DELIVERY: Regulation 16A-4948 (Burns)  
**Date:** Wednesday, October 12, 2022 10:25:23 AM

Independent Regulatory  
Review Commission

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Received.

**Kari Orchard**

Executive Director (D) | House Professional Licensure Committee  
Chairman Frank Burns, 72<sup>nd</sup> Legislative District

---

**From:** Christman, William <wchristman@pa.gov>  
**Date:** Wednesday, October 12, 2022 at 9:51 AM  
**To:** Orchard, Kari L. <KOrchard@pahouse.net>, Barton, Jamie <JBarton@pahouse.net>  
**Subject:** DELIVERY: Regulation 16A-4948 (Burns)

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- 16A-4948: Examinations

**William Christman** | Legal Assistant  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg PA 17106 - 9523  
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OCT 12 2022

**From:** Rolko, Seth  
**To:** Christman, William  
**Subject:** RE: DELIVERY: Regulation 16A-4948 (Boscola)  
**Date:** Wednesday, October 12, 2022 10:38:42 AM

Independent Regulatory  
Review Commission

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Received. Thanks.

**From:** Christman, William <wchristman@pa.gov>  
**Sent:** Wednesday, October 12, 2022 9:51 AM  
**To:** Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>  
**Subject:** DELIVERY: Regulation 16A-4948 (Boscola)  
**Importance:** High

■ EXTERNAL EMAIL ■

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**William Christman** | Legal Assistant  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
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Phone: 717.783.7200 | Fax: 717.787.0251  
[wchristman@pa.gov](mailto:wchristman@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)

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