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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC85-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Doctors of Medicine, Osteopathic Medicine, Podiatry, or Chiropractic
Action title	Licensure by endorsement
Date this document prepared	11/2/16

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board intends to propose regulations for licensure by endorsement for physicians who hold licenses in other states and who meet certain requirements established in regulation. The goal of the planned action is establishment of an expedited process for licensure of qualified physicians who want to practice in Virginia, either in person or by telemedicine.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific

provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...*

The Code section relating to authority to issue licenses by endorsement is:

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.

C. The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The Board has reviewed elements of licensure by endorsement that would provide assurance of competency to practice but also discussed potential disqualifiers including disciplinary actions by another state board, malpractice claims, and/or certain criminal convictions. While the Board may be able to license physicians who have had discipline, malpractice claims, or criminal convictions, it may determine that such an applicant requires a full review and would not qualify for an expedited license by endorsement. The intent is to facilitate licensure for physicians who have a demonstrated history of competent, safe practice in order to protect the health and safety of citizens of the Commonwealth who may become their patients.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The Credentials Committee reviewed some elements of licensure by endorsement, which may include requirements such as: 1) Current, unrestricted license to practice in another U. S. jurisdiction and in good standing in each jurisdiction in which a license is currently held or has been held; 2) Continuous, clinical practice in another U. S. jurisdiction or in federal civil or military service for a period of time immediately preceding application for licensure in Virginia; 3) Current certification by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists or is a diplomate of the American Board of Podiatric Surgery; and 4) Current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB). Neither the Committee nor the full board has determined which requirements will be included in the proposal, but intends to facilitate licensure for physicians who have an unrestricted license and strong evidence of competency to practice.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no viable alternatives to the selection of the least burdensome and intrusive regulation, since the intent of this action is to expedite licensure for some applicants.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website , www.townhall.virginia.gov, or by mail, email or fax to Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Written comments must include the name and address of the

commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

The Credentials Committee of the Board, consisting of six licensed physicians and three citizen members will serve as the Regulatory Advisory Panel to develop proposed regulations resulting from the NOIRA and any comment on the NOIRA.