



## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC85-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic
<b>Action title</b>	Licensure credentials and examination requirements
<b>Document preparation date</b>	6/21/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The substantive change being proposed is to require that applicants who sat for the United States Medical Licensing Examination (USMLE) must pass Steps 1, 2, and 3 within a ten-year period, unless the applicant is Board-certified in a specialty approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists of the American Osteopathic Association. The current requirement is passage within a seven-year period except for "good cause shown."

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On June 21, 2007, the Board of Medicine adopted final amendments to 18VAC85-20-10 et seq., Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...*
- 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. ...*

Provisions in the Medical Practice Act relating to requirements for examination include:

***§ 54.1-2930. Requirements for admission to examination.***

*The Board may admit to examination for licensure to practice medicine, osteopathy, chiropractic and podiatry any candidate who has submitted satisfactory evidence verified by affidavits that he:*

- 1. Is eighteen years of age or more;*
- 2. Is of good moral character;*
- 3. Has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of that branch of the healing arts in which he desires a license to practice, which course of study and the educational institution providing that course of study are acceptable to the Board; and*
- 4. Has completed one year of satisfactory postgraduate training in a hospital approved by an accrediting agency recognized by the Board for internships or residency training. At the discretion of the Board, the postgraduate training may be waived if an applicant for licensure in*

*podiatry has been in active practice for four continuous years while serving in the military and is a diplomate of the American Board of Podiatric Surgery. Applicants for licensure in chiropractic need not fulfill this requirement.*

*In determining whether such course of study and institution are acceptable to it, the Board may consider the reputation of the institution and whether it is approved or accredited by regional or national educational or professional associations including, but not limited to, such organizations as the Accreditation Council of Graduate Medical Education or other official accrediting body recognized by the American Medical Association, by the Committee for the Accreditation of Canadian Medical Schools or their appropriate subsidiary agencies, by any appropriate agency of the United States government, or by any other organization approved by the Board. Supervised clinical training which is received in the United States as part of the curriculum of a foreign medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.*

*§ 54.1-2931. Examinations; passing grade.*

*A. The examination of candidates for licensure to practice medicine and osteopathy shall be the Federation Licensing Examination, the joint Licensure Examination Sequence prepared by the National Board of Medical Examiners and the Federation of State Medical Boards, or such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*

*B. The examination of candidates for licensure to practice chiropractic shall include the National Board of Chiropractic Examiners Examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*

*C. The examination of candidates for licensure to practice podiatry shall be the National Board of Podiatry Examiners Examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The Board's purpose is to address a regulatory issue that has been raised by the Credentials Committee in the process of considering applications for licensure. Current regulations require that all three steps of the United States Medical Licensing Examination (USMLE) be taken within seven years, with an exception to the rule "for good cause shown." The Board has received several such requests, and the Credentials Committee has had no standard by which to

interpret the rule. Without clear criteria for “good cause,” the Board has some concern that the rule could be applied inconsistently. Therefore, it has proposed a more definitive regulation for passage of the examinations, but will allow board certification in a specialty to substitute for the ten-year limitation if necessary. A clear ten-year standard for passage of USMLE will encourage qualified applicants who may need more than seven years to complete advanced training to seek licensure in Virginia. Elimination of the waiver option for “good cause shown” may also provide greater protection for patients since Virginia will be less likely to attract applicants who would not qualify in other states.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

While USMLE still believes that it is best for the three examinations to be taken within seven years, passage of Step 3 may be a sufficient measure of an applicant’s competency and ability to retain medical knowledge over a longer period of time. Therefore, the Board believes extension of the seven-year rule to ten years is appropriate without compromising its responsibility to ensure minimum competency to practice with skill and safety. Primarily, the ten-year time limit is needed for MD/PhD candidates, but there may be other legitimate reasons why someone needs a longer period of time for completion. If Step 3 cannot be completed within ten years, the applicant would have to demonstrate competency by another standard, namely board certification in a specialty.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

1) The primary advantage to the public is a clearer standard for the licensure examination to assure that the applicants for licensure in medicine or osteopathic medicine are qualified and competent. Since most states do not allow licensure if an applicant did not complete USMLE in 7 or 10 years, Virginia is one of the only options available for persons who have had to repeat Step 3 multiple times. If the rule is clearly set at a maximum of 10 years or board certification, there may be a few individuals who will not qualify, but the Board does not believe the proposed standard will disqualify any competent individual who should have a license to practice in Virginia. There are no disadvantages to the public.

- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other matters of interest.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

There were no changes to the text of the proposed regulation since its publication.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Proposed regulations were published on February 5, 2007 with a 60-day comment period that closed on April 6, 2007. A public hearing was conducted on February 22, 2007. There were no written or oral comments received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
140 E 2	Applicants who sat for the United States Medical Licensing Examination (USMLE) shall provide evidence of passing Steps 1, 2, and 3 within a seven-year period except for good cause shown.	<p>Applicants who sat for the United States Medical Licensing Examination (USMLE) shall provide evidence of passing Steps 1, 2, and 3 within a <u>ten</u>-year period <u>unless the applicant is Board-certified in a specialty approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists of the American Osteopathic Association.</u></p> <p><i>Ten years to complete USMLE is sufficient time to cover almost every reasonable circumstance – such as time for PhD/MD candidates, maternity leave, short-time illness, etc. Beyond 10 years, there is concern that too much knowledge from medical school has been lost, and the candidate has had difficulty in demonstrating competency. The one exception to that rule would be for a doctor who has gone on to Board certification in a specialty. Such evidence of competency could replace the 10-year limitation, applicable and necessary.</i></p>

## Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no impact of the proposed regulatory action on the institution of the family and family stability.