



Virginia
Regulatory
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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	18VAC85-20-10 et seq.
Regulation title	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic
Action title	Post-graduate training for graduates of non-accredited medical schools
Document preparation date	5/20/05

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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to modify section 122, which sets out the educational requirements for graduates and former students of institutions not approved by an accrediting agency recognized by the board, to specify that at least one of the required two years of postgraduate training or study in the United States or Canada must be as an intern or resident in a hospital or health care facility.

In 2003, § 54.1-2935 of the Code of Virginia was amended to reduce the requirement for postgraduate training for graduates of non-approved programs in medicine from three to two years. Accordingly, the Board amended its regulations for satisfactory postgraduate training to require two years. Prior to 2003, the Board allowed such a graduate to substitute other postgraduate training or study for up to two of the required three years, but required at least one year of training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program. With the reduction in total training to two years, it became possible for all of the postgraduate training to be met without any period of internship or residency. The Board believes at least one year of supervised postgraduate training is essential to ensure that a graduate has the knowledge and skills necessary to practice medicine with safety and competency.

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 number(s), 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:

...

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. ...

In addition, the Medical Practice Act, as amended in 2003, specifies at least two years of satisfactory postgraduate training for applicants from a non-accredited educational program:

§ 54.1-2935. Supplemental training or study required of certain graduates.

In the event that a candidate has completed an educational course of study in an institution that is not approved by an accrediting agency recognized by the Board, the candidate shall not be admitted to any examination given by the Board until he has completed two years of satisfactory postgraduate training in a hospital approved by an accrediting agency recognized by the Board for internship or residency training. The Board may consider other postgraduate training as a substitute for the required postgraduate training if it finds that such training is substantially equivalent to that required by this section.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed change would amend section 122 to specify that at least one year of the two years of postgraduate training must consist of training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program. Since the academic rigor of medical education programs in other countries may vary widely from what is expected of graduates

of approved programs accredited in the United States or Canada, it is necessary to require graduates of non-approved programs to practice in an internship or residency in a hospital or health care system organized and structured for such practice, observation, supervision and evaluation to ensure public health and safety. Competency to safely practice on the public cannot be solely measured by passage of a written examination. If the graduate is allowed to spend all of his two years in a fellowship or teaching position, his practice skills and knowledge may not be appropriately evaluated and minimal competency assured.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

Chapter 996 of the 2003 Acts of the Assembly changed the number of years from three to two for graduates of non-approved medical schools who are required to complete satisfactory postgraduate training in a hospital approved for internship or residency training. Regulations for graduates and former students of institutions not approved by an accrediting agency recognized by the Board (section 122) were modified accordingly to change the required training from three to two years. At that time, the Board did not clarify in its regulations that it would continue to require at least one year in an approved internship or residency. Consequently, the Board is unable to deny licensure to an applicant who has had two years in a teaching position or fellow, but has never practiced as an intern or resident to have his practice knowledge and skills observed and evaluated. The only remedy is an amendment to regulation to ensure that at least one year is spent in an approved internship or residency.

Alternatively, current regulations allow the board to substitute continuous full time practice of five years or more with a limited professorial license in Virginia, and one year of postgraduate training in a foreign country, in lieu of two years of postgraduate training. That alternative to the residency or internship would not be amended.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

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