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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC85-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic
<b>Action title</b>	Licensure pathway for foreign physicians through provisional and restricted licenses
<b>Date this document prepared</b>	October 25, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Board has issued a notice of intended regulatory action to amend 18VAC85-20 to provide a licensure pathway for foreign physicians using a system of provisional and restricted licensure. This action is consistent with [HB995 of the 2024 General Assembly \(Ch. 464 of the 2024 Acts of Assembly\)](#).

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

N/A

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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[HB995 of the 2024 General Assembly \(Ch. 464 of the 2024 Acts of Assembly\)](#) amended the Code of Virginia to allow the Board of Medicine the authority to create a pathway for foreign physicians that do not meet current requirements to become licensed in Virginia. That legislative action forms the basis and the mandate for this regulatory action.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Regulations of the Board of Medicine are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Virginia Code § 54.1-2933.1 permits the Board to provide a pathway to full licensure for foreign physicians through a system of provisional and restricted licensure.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Board did not determine that this issue is essential to protect the health, safety, and welfare of citizens. That determination was made by the General Assembly with the passage of HB995. Increase of physicians operating in Virginia, and in rural or underserved areas through restricted licensure, will increase the number of practitioners available for the public and will therefore protect the health, safety, and welfare of citizens.

## Substance

*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 Board has issued a NOIRA to make regulatory changes to implement HB995, including the following:

- Amending 18VAC85-22 to create fees associated with initial applications and renewals of provisional and restricted licenses;
- Amendments creating application requirements for provisional and restricted licenses;
- Amendments creating renewal requirements for provisional and restricted licenses;
- Amendments creating criteria for assessment and evaluation programs of provisional licensees;
- Amendments creating additional criteria required by the Board to obtain a provisional license;
- Amendments to disciplinary provisions of regulations to include provisional and restricted licensees; and
- Amendments to regulations related to reinstatement to include provisional and restricted licensees.

The Board of Medicine Legislative Committee will continue its work to determine and draft requirements for assessment and evaluation programs along with any additional criteria for provisional licensees at future meetings as this NOIRA moves through the regulatory process.

### **Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

There are no alternatives to regulation. To issue new license types and provide requirements and restrictions for those new license types, the Board must amend existing regulations and draft new regulations. These regulations do not impact small businesses, nor does the Board regulate businesses, therefore the Board does not need to consider less intrusive or less costly alternatives for small businesses.

### **Periodic Review and Small Business Impact Review Announcement**

This NOIRA is not being used to announce a periodic review or a small business impact review.

### **Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

The Board of Medicine is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.