Virginia Regulatory Town Hall

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Final Regulation
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	Elimination of face-to-face continuing education
Document preparation date	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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Board proposes to eliminate the requirement that 15 of the 30 hours of Type 1 continuing education required for biennial renewal of a license in medicine, osteopathic medicine, podiatry or chiropractic must be acquired face-to-face or in interactive course work.

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:
…
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 requires the Board to establish requirements to ensure continued practitioner competence:

§ 54.1-2912.1. Continued competency and office-based anesthesia requirements.
A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.

B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.

D. Pursuant to § 54.1-2400 and its authority to establish the qualifications for registration, certification or licensure that are necessary to ensure competence and integrity to engage in the regulated practice, the Board of Medicine shall promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices.

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 purpose of the action is to amend section 235 to eliminate the requirement that 15 of the required 30 hours of Type 1 continuing competency activities or course be completed face-to-face or in interactive experiences. According to comments received from practitioners on the petition for rule-making, much of the electronically-offered CME is superior in quality and applicability to practice than the courses that can be accessed through conferences and meetings. In addition, internet CME can be obtained and digested during hours and in settings that do not remove the practitioner from practice and limit his availability to patients. For those reasons, the Board believes the public health and safety benefits of amending the continuing competency requirements to eliminate face-to-face CE would outweigh any concerns about practitioner isolation.

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.

The proposed regulatory action is to eliminate the requirement that 15 of the 30 hours of Type 1 continuing education must be acquired face-to-face or in interactive course work, so all 30 hours can be obtained in on-line or journal course or activities which are approved for Category 1 by an accrediting body such as the American Medical Association.

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) There are no advantages or 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.

Current section number	Proposed new section number	Proposed change and rationale
235	n/a	The requirement for 15 of the Type 1 hours of continuing education to be earned in face-to-face group activities or other interactive courses is eliminated. *There are now a wide range of Category 1 accredited hours offered in the various professions, and some argue that on-line courses are a more effective learning tool for their practice. Therefore, the Board determined that the benefit of acquiring face-to-face continuing education did not outweigh the costs and time away from patient care.*

Family impact

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

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