



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	Continuing competency for medical examiners
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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 purpose of the proposed regulatory action is to allow a waiver to requirements for continuing medical education for doctors of medicine whose practice is limited to service as a medical examiner. The action is in response to a petition for rule-making from a physician in Lee County, who is retired from active practice but is serving his community as a medical examiner and would like to be freed from the expense and time commitment of 60 hours of continuing education each biennium.

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 Board believes that such a waiver may have the effect of a modest increase in the availability of physicians willing to serve as medical examiners in local communities. If this action had that effect, delays in determining the cause of death could be avoided, which could be important to law enforcement and to the health and safety of persons in those communities.

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 change would amend section 235 to grant authority for the Board to waive all or part of the continuing education requirements for doctors of medicine or osteopathic medicine who limit their practice to serving as a medical examiner in a locality. The only requirement for continued competency would be completion of the six hours of training provided annually by the Office of the Chief Medical Examiner.

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 would be to encourage and support the older physicians, who have retired from active practice, but are willing to continue serving as a local medical examiner. Compensation for a medical examiner is minimal, so the additional expense of acquiring continuing medical education relating to clinical practice is burdensome. An exemption from continuing education for a physician practicing solely as a local medical examiner would not represent any risk of harm to the public or any diminution in the quality of health care.

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	Current requirement	Proposed change and rationale
235	n/a	H. The board may grant an exemption for all or part of the requirements for a licensee who is practicing solely in an uncompensated position, provided his practice is under the direction of a physician fully licensed by the board.	<p>H. The board may grant an exemption for all or part of the requirements for a licensee who;</p> <p><u>1. Is practicing solely in an uncompensated position, provided his practice is under the direction of a physician fully licensed by the board;</u> <u>or</u></p> <p><u>2. Is practicing solely as a medical examiner, provided the licensee obtains six hours of medical examiner training per year provided by the Office of the Chief Medical Examiner.</u></p> <p><i>An exemption from continuing education for a physician practicing solely as a local medical examiner would not represent any risk of harm to the public or any diminution in the quality of health care. Compensation for a medical examiner is minimal, so the additional expense of acquiring</i></p>

			<i>continuing medical education relating to clinical practice is burdensome. According to the Chief Medical Examiner, the only continuing education that is necessary is six hours of training provided by her office each year. By meeting that requirement, a physician should remain competent to continue working in the capacity of a medical examiner.</i>
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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.