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Regulatory
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Proposed 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	Post-graduate training for graduates of non-accredited medical schools	
Document preparation date	9/16/05	

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*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Board proposes to amend 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.

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., the 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.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

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.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

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. The other year could be waived for a graduate who has secured an approved fellowship or teaching position.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

- 1) The primary advantage to the public would be additional assurance that a graduate of a non-accredited medical school is adequately prepared and sufficiently knowledgeable to be licensed as an independent doctor of medicine or osteopathic medicine. Without one year of supervised practice in a residency or internship, there is less assurance of minimal competency for persons who may have received their medical education in third-world countries. There are no disadvantages. The requirement for two years of post-graduate training has not been changed, only the alternatives for completion of the two years have been amended.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other matters of interest.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little costs involved. Every effort will be made to incorporate</p>
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	those into anticipated mailings and Board meetings already scheduled. There are no on-going expenditures.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	The entities that are likely to be affected by these regulations would be graduates of non-accredited (foreign) medical schools who are seeking licensure in Virginia.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are approximately 2400 persons who hold an intern or resident license, but the specific number who are graduates of a non-accredited school is not known. There would be no impact on small businesses.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	The difference in reimbursement to a person serving in a residency versus in a fellowship would vary but is estimated by MCV to be approximately \$800 at that medical center. In some settings, the salary for a fellow is actually less than that for a resident because the facility can bill for the resident’s services, so the cost to the individual of serving a year in a residency, versus a fellowship, would have little or no impact.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets 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.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

The Notice of Intended Regulatory Action was published in the Register on July 11, 2005 and sent to the Public Participation Guidelines list with comment requested until August 10, 2005. There was no comment on the NOIRA.

Family impact

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

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

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22	n/a	5. Requires completion of two years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency. a. The board may substitute other postgraduate training or	An amendment would specify that only one of the two years of residency or internship could be waived for someone in an approved fellowship or teaching position. 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

	<p>study for the two-year requirement when such training or study has occurred in the United States or Canada and is:</p> <ul style="list-style-type: none">(1) An approved fellowship program; or(2) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.	<p>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.</p>
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