

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 16]

Licensure by Endorsement

The State Board of Medicine (Board) amends Chapter 16 (relating to State Board of Medicine—general provisions) by adding §§ 16.12a, 16.12b and 16.12c (relating to definitions for license by endorsement under 63 Pa.C.S. § 3111; license by endorsement under 63 Pa.C.S. § 3111; and provisional endorsement license under 63 Pa.C.S. § 3111) and amending § 16.13 (relating to licensure, certification, examination and registration fees) to read as set forth in Annex A.

Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the Board or commission determines this conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the Board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Section 3111(b) of 63 Pa.C.S. authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Additionally, section 8 of the Medical Practice Act of 1985 (act) (63 P.S. § 422.8), section 207 of the Naturopathic Doctor Registration Act (NDRA) (63 P.S. § 272.207) and section 3 of the Acupuncture Licensure Act (ALA) (63 P.S. § 1803) provides the Board with broad authority to adopt regulations as are reasonably necessary to carry out the purposes of the act, the NDRA (63 P.S. §§ 272.101—272.301) and the ALA (63 P.S. §§ 1801—1806.1).

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (repealed) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for Final-Form Rulemaking

This final-form rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement. Under 63 Pa.C.S. § 3111, the Board shall determine whether the jurisdiction's standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111(a)(2) requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application. Under 63 Pa.C.S. § 3111(b)(2), the Board shall establish, by regulation, the expiration of the provisional endorsement license. This final-form rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

Summary and Response to Comments

Notice of the proposed rulemaking was published at 52 Pa.B. 4923 (August 13, 2022). Publication was followed by a 30-day public comment period during which the Board received 36 public comments. Additionally, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the Professional Licensure Committee of the House of Representatives (HPLC). The Consumer Protection and Professional Licensure Committee of the Senate (SCP/PLC) did not submit comments.

Public comments

Of the 36 public comments, 34 individuals submitted comments indicating support of the inclusion of naturopathic doctors in the proposed rulemaking and one individual expressed general support for the proposed rulemaking. Additionally, the Pennsylvania Association of Naturopathic Physicians (PANP) expressed support of the enactment of the NDRA along with the correlating regulations that were published as final on May 18, 2024, indicating that Pennsylvania-based naturopathic doctors can join out-of-State providers in licensure through the NDRA. The PANP noted that most naturopathic doctors currently working in this Commonwealth maintain a license to practice naturopathic medicine from an outside state that regulates naturopathic medicine. The PANP expressed its support of the proposed rulemaking, which will allow naturopathic doctors licensed in other states to apply for a license by endorsement. Three public commenters pointed out that the proposed rulemaking will protect the public from fraudulent practitioners who offer naturopathic services without having any medical training. One commentator explained the importance of easing the burden many licensed professionals encounter when moving from state to state. This individual agrees that this final-form rulemaking will place this Commonwealth ahead regionally, but that this Commonwealth will continue to fall behind other states that do not require a "substantially equivalent" comparison. The commentator asked the Board to reconsider the inclusion of the "substantially equivalent" standard for licensing. However, the plain language of 63 Pa.C.S. § 3111 requires that the "substantially equivalent" standard. Therefore, the Board is unable to implement this commentator's request.

HPLC comments

The HPLC submitted four comments in response to the proposed rulemaking. The Board will address each comment in turn.

§ 16.12b(a)(2)

In its first comment, the HPLC states that § 16.12b(a)(2) requires an applicant to submit a copy of the current law and regulations, along with scope of practice requirements, in the jurisdiction that issued a license, certificate, registration or permit. However, the HPLC points out that Act 41 of 2019 does not explicitly state this requirement. The HPLC recommends that the Board remove this responsibility from the applicant and apply it to the Board's legal counsel. After thoughtful consideration of this request, the Board has respectfully decided to keep the language unchanged in this final-form rulemaking. The Board notes that it is the burden of the applicant to prove that they have met all qualifications for licensure. Additionally, it is the applicant who is most familiar with their jurisdiction's laws and regulations and where they can be located. Therefore, it should not be difficult or time consuming for the applicant to complete this task. However, if this burden were to be shifted to the Board's legal counsel, it would require significant attorney time and costs, especially if the licensing jurisdiction is a non-English-speaking country. It would be extremely difficult for the Board's legal counsel to search online, perform legal research or to call without first hiring a translator to assist. Not only would all these costs be billed to the Board, but it would cause an extreme delay in the processing of these applications. If the burden is on the Board and its staff, the Board would need to increase the costs of applications to cover the cost of additional attorney time. The increased application fees would have to be evenly applied to all licensure by endorsement applications which is not fair to other applicants because only some would require significant attorney time. While the Board will take steps to verify the laws and regulations of another jurisdiction, having the applicant provide that initial information is the most expedient and fiscally prudent approach. Therefore, the Board concludes that the applicant is the appropriate person to provide their jurisdiction's laws and regulations to the Board.

§ 16.12b(a)(5)

Second, the HPLC comments that § 16.12b(a)(5) states that an applicant must not have any discipline by the jurisdiction that issued the license, certificate, registration or permit. The HPLC recommends that the Board clarify this section to specify the types of discipline and the time frame when the discipline occurred. The HPLC suggested that the Board distinguish between formal discipline and a complaint. In response to this comment, the Board does not think it is necessary to make this type of distinction. A complaint is not considered to be formal or informal discipline. Additionally, the Board does not believe it is appropriate to predetermine the type of discipline or the time frame discipline occurred. The Board, instead, believes it is appropriate to evaluate discipline on a case-by-case basis. As indicated in § 16.12b(c), the Board is authorized to determine that discipline is not an impediment to licensure under 63 Pa.C.S. § 3111. In determining whether the discipline is an impediment to licensure, the Board is dutybound to apply the caselaw and other applicable laws. See *Secretary of Revenue v. John's Vending Corp.*, 453 Pa. 488, 309 A.2d 358 (1973); *Bethea-Tumani v. Bureau of Professional and Occupational Affairs, State Board of Nursing*, 993 A.2d 921 (Pa. Cmwlth. 2010). As a part of that analysis,

the Board may consider the facts and circumstances surrounding the prohibited act or disciplinary action, increase in age or maturity of the individual since the date of the prohibited act or disciplinary action, disciplinary history or lack of disciplinary history before and after the date of the prohibited act or disciplinary action, successful completion of education and training activities relating to the prohibited act or disciplinary action and any other information relating to the fitness of the individual for licensure. To be consistent with the language in § 16.12b(a)(4) and (5), the Board adds the word "discipline" to the heading of § 16.12b(c).

§ 16.12c(b)(1)

Third, the HPLC notes that § 16.12c(b)(1) would give the Board authority to issue a provisional license for less than a year. The HPLC is concerned that the language in this section is unclear under what circumstances the Board would need to exercise this authority. As such, the HPLC requests clarification from the Board. In response to this comment, the Board notes that it is important for the Board to have the authority to use its discretion to issue a provisional license for less than 1 year because there may be circumstances where issuing a provisional license for less than 1 year is appropriate. For example, there may be scenarios where an applicant from another jurisdiction must take an English proficiency examination to meet the qualifications for licensure by endorsement. English proficiency is tied to patient safety because it is necessary that the practitioner can communicate with other healthcare practitioners and their patients. To give the applicant an entire year to complete an English proficiency test would allow the applicant to wait until the very last minute to complete the task, resulting in the applicant potentially practicing without being able to efficiently communicate with others in their profession. Based on this concern, the Board believes it is appropriate to give the Board the authority to determine the appropriate length of time necessary for the applicant to meet the qualifications for licensure. To clarify this language in this final-form rulemaking, the Board adds additional language in § 16.12c(b)(1) to specify that in situations where the remaining requirements for licensure do not require 1 full year, the Board may, in its discretion, determine it appropriate to give an expiration date that is less than 1 year.

§ 16.12c(d)

Fourth, the HPLC points out that § 16.12c(d) states that the Board will not issue subsequent provisional licenses after the provisional license expires. The HPLC is concerned that this section is unintentionally vague and that Act 41 of 2019 does not specifically state that the Board shall only issue one provisional license. It is suggested that this section be amended to correct the unintended harm or limiting provisional licenses and it is further suggested that the Board incorporate a time frame to reapply. After much consideration and discussion of this comment, the Board has decided not to change this language. The Board's main concern is patient safety. The provisional license allows the applicant additional time to satisfy remaining requirements for licensure, which can include demonstrating competency to practice the profession. It is important to the Board that practitioners from other states are competent to practice. If the applicant is unable to meet all of the requirements for competency, the Board wants those requirements met as quickly as possible. If it is determined by the Board that meeting these requirements would take longer than 1 year, § 16.12c(b)(2) allows the applicant to request an extension of up to 1 year, for good cause shown, to complete

those remaining requirements to obtain full licensure. This language allows an applicant up to 2 years to meet the licensing requirements while actively practicing in this Commonwealth on a provisional license. To allow an applicant, who is unable to establish that they meet the requirements for licensure, to continue to practice for an indefinite period may pose a risk to patient safety and may be used as a mechanism to circumvent licensing requirements. Placing a time limit on the provisional license and not permitting an individual to reapply for a provisional license will prevent individuals from circumventing licensure requirements by continuously reapplying just so they can keep practicing without meeting the requirements for licensure.

IRRC comments

IRRC submitted three comments for the Board's review and response. The first comment restates the comments submitted by the HPLC and requests that the Board provide responses to the issues raised by the HPLC. In its second comment, IRRC asks that the Board revise its responses to questions 17, 19 and 23 in the Regulatory Analysis Form (RAF) to include an estimate of the costs to the regulated community for translation services, a criminal history records check (CHRC) and professional liability insurance requirements specified in § 16.12b. The final comment by IRRC requests that the Board explain how the "substantial equivalence" provision will balance the protection of the public health, safety and welfare against the burden and cost to applicants and the Board. Also, as part of the final comment, IRRC requests that the Board make certain that the NDRA regulation is finalized before this regulation is delivered in final form. The Board will address each comment in turn.

Comments, Objections or Recommendations of a Committee

In its first comment, IRRC restates the comments submitted by the HPLC and requests that the Board provide responses to the HPLC's comments since the issues raised by the HPLC and the Board's responses to those issues will be one of the criteria used by IRRC to determine if the regulation is within the public interest. In response to this first comment, the Board has fully addressed each concern of the HPLC in the previous section.

Economic or fiscal impacts; Compliance with provisions of the Regulatory Review Act or the regulations of the Commission in promulgating the regulation

In its second comment, IRRC cites the language in § 16.12b(a)(2) which requires an applicant seeking licensure by endorsement to provide, among other things, a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the applicant's license, certificate, registration or permit. If that language is not in English, the document must be translated, at the applicant's expense, by a professional translation service and verified to be complete and accurate. However, IRRC notes that the Board's response to RAF question 19 does not provide for a specific estimate of the costs to the regulated community for translation services. Also, in the responses to questions 17, 19 and 23, the Board does not address the cost of a CHRC or professional liability insurance. IRRC requests that the Board provide an updated RAF that estimates all these costs.

In response to the second comment, the Board updates the RAF, specifically the responses to questions 17 and 19

to include an estimate of the costs for translation services and CHRC costs. An applicant obtaining a Federal Bureau of Investigation (FBI) CHRC is charged \$18 by the FBI. A CHRC obtained through the Pennsylvania State Police is \$22. An applicant obtaining a CHRC from any other state, territory or country would be charged the fee assessed by that jurisdiction. The Board notes that all applicants, regardless of whether they apply through endorsement or by examination, would be required to submit a CHRC and would incur those same costs. Therefore, the Board did not include the CHRC in question 23 of the RAF because it is already an existing cost for all applicants. Regarding translation costs, to date, the Board has not had any applications that required translation, and the Board does not anticipate receiving many applications that would require translation fees. Therefore, the Board did not include this potential cost in question 23 of the RAF. Regarding professional liability insurance costs, health care providers who are required to maintain professional liability insurance must do so regardless of whether they apply through endorsement, examination, reciprocity or any other method. The cost of professional liability insurance can vary vastly depending on the profession, the location of practice, the specialty practiced and the malpractice history of the professional.

§ 16.12b. Licensure by endorsement under 63 Pa.C.S. § 3111—Need; Protection of the public health, safety and welfare; Implementation procedures and clarity

Subsection (a)(3)(i) requires demonstration of competency by practicing in 2 of the past 5 years in a "substantially equivalent jurisdiction or jurisdictions." IRRC questions what standard determines whether a jurisdiction is substantially equivalent. IRRC points out that this provision seems to place an additional burden on the applicant or the Board to prove equivalency since the experience can occur in multiple jurisdictions. IRRC questions whether the Board has considered, at least for jurisdictions within the United States, creating and publishing an annual determination of those jurisdictions which have laws and regulations substantially equivalent to the Commonwealth. Additionally, IRRC asks the Board to explain how these provisions balance the protection of the public health, safety and welfare against the burden and cost to the applicants and the Board.

In determining whether another jurisdiction's licensure standards are substantially equivalent to the Board's licensure requirements, the Board conducts an individual assessment of each application including the different path or licensure track taken by the applicant, at the time the application is submitted. Boards routinely consider whether standards of other jurisdictions are equivalent or substantially equivalent to the standards of the Commonwealth. When looking at the licensure standards of other jurisdictions, the Board evaluates the requirements or qualifications for initial licensure in that jurisdiction at the time of the application. This ensures that the Board is using the most up-to-date laws and regulations when making decisions on these applications, which will in turn ensure that all professionals that are licensed through this regulation are competent and safe to their profession. Because laws and regulations routinely change, publishing an annual list of substantially equivalent jurisdictions would be out of date soon after it is published. In addition, a list would place an enormous burden on the Board to continuously review each state's laws and regulations to assure there are no changes and then revise the published list accordingly. Regarding applicants who may wish to submit experience from

multiple jurisdictions, while the Board allows a submission, applicants are not required to submit experience from multiple jurisdictions. The Board accepts experience from multiple jurisdictions to be more inclusive and to allow individuals with geographically diverse experience to utilize that experience. While it may be mildly inconvenient for an applicant to have to upload their jurisdiction's laws and regulations, that inconvenience is greatly outweighed by the Board's interest in ensuring that applicants licensed in other jurisdictions are competent to practice within the scope of practice of the profession in this Commonwealth. Given the anticipated low volume of expected applications for licensure by endorsement under 63 Pa.C.S. § 3111, coupled with the costs of engaging in this action, the Board declines to add this recommendation.

Section 16.12b(8) requires an applicant to apply for a license, certificate, registration or permit in accordance with the Board's regulations. IRRC points out that many commentators have expressed their support for the inclusion of naturopathic doctors; however, at the time of the proposed rulemaking, the regulation implementing the NDRA was not finalized. IRRC asked the Board to ensure that the NDRA regulation be finalized before this regulation is delivered in final form. The Board notes that the NDRA regulation was published as final at 54 Pa.B. 2780 (May 18, 2024). In § 16.12b(a)(1)(iii), the Board adds § 18.903 (relating to application for naturopathic doctor registration) to the list of the Board's regulatory licensing standards.

Miscellaneous Amendments for Clarity

The Board also makes some non-substantive amendments for clarity. Additionally, most boards and commissions under the Bureau of Professional and Occupational Affairs have or are in the process of drafting similar regulations. To keep the regulations across the various boards and commissions consistent, some non-substantive revisions have been made to conform the regulations to other licensure by endorsement regulations, including the following amendments.

The Board amends § 16.12b(a)(3)(ii)(E) and (G) to clarify English proficiency requirements to ensure consistent standards within its regulations. The amendments in § 16.12b(a)(3)(ii)(E) and (G) mirror the score requirements for the Test of English as a Foreign Language (TOEFL®) in the Board's regulations as in § 18.13 (relating to requirements for licensure as an acupuncturist), which was published as final at 53 Pa.B. 5759 (September 16, 2023). The amendments provide additional clarity by specifying the score for each version of the TOEFL® and allowing the Board to accept an equivalent score on a successor examination of the TOEFL®. Specifically, the amended language clarifies that an applicant must achieve a scaled score of at least 83 on the TOEFL® internet-based test, which is the most recent version of the examination. The Board deletes the phrase "or similar score acceptable to the Board" and replaces it with the acceptable scores for the outdated versions of the TOEFL®. The comparable score for the TOEFL® computer-based test (CBT) is 220 which the Board will accept for that version of the examination. The comparable score for the TOEFL® paper-based test (PBT) is 557—560; however, since the Board's regulations previously accepted a scaled score of 550 on the PBT, the Board will continue accepting that same score to maintain consistency on this version of the examination. The Board obtained comparable score information from the 2005 *TOEFL® Score Comparison Table* which was created

by Educational Testing Services, the company that currently manages the TOEFL®. The Board includes the acceptable scores for the outdated versions of the TOEFL®. While the CBT and PBT versions of the examination have been discontinued, including these examinations will notify the regulated community of the Board's practice of accepting a passing score on these versions of the examination for those individuals who have taken the examination in the past.

The Board also amends § 16.12b(a)(3)(ii)(G) to allow the Board to accept a passing score on another English proficiency examination that is equivalent to the TOEFL® or Occupational English Test (OET). This allows the Board to accept future versions of the TOEFL® or OET so that when future versions are adopted, the Board's regulations will recognize those examinations immediately. The Board also adds additional language indicating that the Board will make a list available on its website of all equivalent and successor examinations.

The Board amends § 16.12b(a) and (a)(2) by replacing the word "must" with "shall."

The Board amends § 16.12b(a)(1) to change the term "certification" to "certificate."

The Board amends § 16.12b(a)(1)(iii) to delete the "regarding to" descriptions for §§ 17.1 and 18.504 (relating to license without restriction; and application for licensure) because the descriptions are unnecessary.

The Board amends § 16.12b(a)(3) by replacing "demonstrates" with "demonstrate," deleting the term "establishing" and clarifying that experience may be from a jurisdiction or jurisdictions with substantially equivalent licensure standards.

The Board amends § 16.12b(a)(7) and (9) by changing the tenses of the first words of the sentence to "have satisfied" and "have completed." The Board also adds a cross reference to Subchapter G of the Board's child abuse regulations.

The Board amends § 16.12b(c) by changing the header to "Prohibited acts and discipline" because the subsection discusses both prohibited acts and discipline.

The Board amends § 16.12c(c)(3) to clarify that a provisional endorsement license terminates when the license expires.

The Board amends § 16.12c(d) to replace the term "licensure" with "a license" for clarity.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the initial application fees in § 16.13. Applicants will have to pay the initial application fee of \$35 for a medical doctor who is a graduate of a medical college within the United States or Canada and \$85 for medical doctors who are a graduate of a medical college outside of the United States or Canada; \$75 for behavioral specialist; \$50 for nurse midwife, perfusionist, genetic counselor, prosthetist, orthotist; \$30 for physician assistant, acupuncturist, practitioner of Oriental medicine, respiratory therapist; \$25 for pedorthist, orthotic fitter; \$20 athletic trainer; \$100 for naturopathic doctor. An applicant obtaining an FBI CHRC is charged \$18 by the FBI. A CHRC obtained through the Pennsylvania State Police is \$22. An applicant obtaining a CHRC from any other state, territory or country would be charged the fee assessed by that jurisdiction.

Applicants must complete child abuse recognition and reporting training, as required by 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training). There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training. If an applicant is unable to establish English proficiency by demonstrating that their education, training or examination was in English and they must take the TOEFL® examination or another examination, the cost to the applicant is approximately \$200.

The previously stated costs would be incurred by all applicants regardless of whether they apply through endorsement or by examination.

Sunset Date

The Board continuously monitors its regulations; therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 1, 2022, the Board submitted a copy of the notice of proposed rulemaking, published at 52 Pa.B. 4923 and a copy of a RAF to IRRC, the chairperson of the SCP/PLC and to the chairperson of the HPLC for review and comment. Publication was followed by a 30-day public comment period during which the Board received 36 public comments. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act, IRRC, the SCP/PLC and the HPLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board considered all comments from IRRC, the HPLC and the public. The SCP/PLC did not submit comments.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on July 25, 2024, the Board delivered this final-form rulemaking to IRRC, the SCP/PLC and the HPLC. Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act, on September 18, 2024, the final-form rulemaking was deemed approved by the SCP/PLC and the HPLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 19, 2024, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Saiyad Ali, Board Administrator, State Board of Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-MEDICINE@pa.gov.

Findings

The Board finds that:

(1) Public notice was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose for the proposed regulation published at 52 Pa.B. 4923.

(4) These amendments to the regulations of the Board are necessary and appropriate for the administration of 63 Pa.C.S. § 3111.

Order

The Board, acting under its authorizing statute, orders that:

(A) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by adding §§ 16.12a, 16.12b and 16.12c and amending § 16.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(B) The Board shall submit a copy of this final-form rulemaking to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(C) The Board shall submit this final-form rulemaking to IRRC, the SCP/PLC and the HPLC as required by law.

(D) The Board shall certify this final-form rulemaking and shall deposit it with the Legislative Reference Bureau as required by law.

(E) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

MARK B. WOODLAND, MS, MD
Chairperson

(Editor's Note: See 54 Pa.B. 6347 (October 5, 2024) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-4958 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS

Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.12a. Definitions for license by endorsement under 63 Pa.C.S. § 3111.

The following term, when used in §§ 16.12b and 16.12c (relating to license by endorsement under 63 Pa.C.S. § 3111; and provisional endorsement license under 63 Pa.C.S. § 3111) has the following meaning unless the context clearly indicates otherwise:

Jurisdiction—A state, territory or country.

§ 16.12b. License by endorsement under 63 Pa.C.S. § 3111.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant shall satisfy all of the following conditions:

(1) Have a current license, certificate, registration or permit in good standing in another jurisdiction whose standards for licensure are substantially equivalent to or exceed those under the following:

(i) The act, the Naturopathic Doctor Registration Act (NDRA) (63 P.S. §§ 272.101—272.301) or the Acupuncture Licensure Act (ALA) (63 P.S. §§ 1801—1806.1).

(ii) Section 16.12 (relating to general qualifications for licenses, registration and certificates).

(iii) Sections 17.1, 18.2, 18.13, 18.13a, 18.141, 18.307, 18.504, 18.524, 18.603, 18.703, 18.814, 18.824, 18.833, 18.843 and 18.903, as applicable.

(2) Submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. The following apply:

(i) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(ii) The copy of the applicable law, regulation or other rule must include the enactment date.

(3) Demonstrate competency by the following:

(i) Experience in the practice of the profession by demonstrating, at a minimum, that the applicant has actively engaged in the licensed practice of the profession under a license, certificate, registration or permit in a jurisdiction or jurisdictions with substantially equivalent licensure standards, for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(ii) English language proficiency by demonstrating one of the following:

(A) The applicant's educational program was in English.

(B) The applicant's training was at an English-speaking facility.

(C) The applicant's entry examination was taken in English.

(D) The applicant is certified by the Educational Commission for Foreign Medical Graduates.

(E) The applicant has achieved a scaled score of at least 83 on the Test of English as a Foreign Language (TOEFL®) internet-based test (IBT), a 220 on the TOEFL® computer-based test (CBT), a 550 on the TOEFL® paper-based test (PBT) or an equivalent score on a successor examination of the TOEFL®. The Board will make available a list of Board-approved successor examinations on its web site.

(F) The applicant has achieved a score of 350 in each of the four subtests of the Occupational English Test (OET).

(G) The applicant has achieved a passing score on an English proficiency examination equivalent to the TOEFL® or OET, as determined by the Board. The Board will make available a list of equivalent Board-approved English language proficiency examinations on its web site.

(4) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice prohibited by section 41 of the act (63 P.S. § 422.41) or section 204 of the NDRA (63 P.S. § 272.204).

(5) Have not been disciplined by the jurisdiction that issued the license, certification, registration or permit.

(6) Have paid the applicable application fee as required by § 16.13 (relating to licensure, certification, examination and registration fees).

(7) Have satisfied the professional liability insurance requirements as required under the act, section 3.2 of the ALA (63 P.S. § 1803.2), this chapter and Chapter 18 (relating to State Board of Medicine—practitioners other than medical doctors).

(8) Have applied for a license, certificate, registration or permit in accordance with this chapter in the manner and format prescribed by the Board.

(9) Have completed 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training) and Subchapter G (relating to minimum standards of practice—child abuse reporting).

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency, experience or English proficiency. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) *Prohibited acts and discipline.* Notwithstanding subsection (a)(4) and (5), the Board may, in its discretion, determine that an act prohibited under section 41 of the act (63 P.S. § 422.41), section 204 of the NDRA (63 P.S. § 272.204) or a disciplinary action taken by another jurisdiction is not an impediment to licensure under 63 Pa.C.S. § 3111.

§ 16.12c. Provisional endorsement license under 63 Pa.C.S. § 3111.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 16.12b (relating to licensure by endorsement under 63 Pa.C.S. § 3111).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. When the remaining requirements for licensure can be completed in less than 1 year, the Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon written request and showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(3) When the provisional endorsement license expires.

(d) *Reapplication.* An individual may reapply for a license by endorsement under § 16.12b after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

§ 16.13. Licensure, certification, examination and registration fees.

(a) *Medical Doctor License:*

License Without Restriction:

Application, graduate of a medical college within the United States or Canada \$35

Application, graduate of a medical college outside of the United States or Canada \$85

Biennial renewal \$360

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