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For Department of State Use Only

Sequence Number: 03-05-09
Rule ID(s): 4141
File Date: 03/13/2009
Effective Date: 05/27/2009

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing TCA Section 4-5-205

Agency/Board/Commission: Board of Medical Examiners
Division:
Contact Person: Shiva K. Bozarth
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0880-02	General Rules and Regulations Governing the Practice of Medicine
Rule Number	Rule Title
0880-02-.04	Licensure Process—International Medical School Graduates

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule 0880-2-.04 Licensure Process — International Medical School Graduates, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) shall read:

- (5) An applicant shall submit evidence satisfactory to the Board of successful completion of a three (3) year residency program approved by the American Medical Association or its extant accreditation program for medical education or its successor. Such evidence shall include, but not be dispositive of this requirement, a notarized certificate of completion and a letter attesting to satisfactory completion issued by the director of the program which shows that the residency was completed in one (1) discipline. An applicant who holds a specialty board certification may be deemed to have completed the three (3) year residency requirement of this rule if the specialty board is recognized and is a member of the American Board of Medical Specialties.

Authority: T.C.A. §§ 63-6-101 and 63-6-207.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Subhi D. Ali, M.D.	X				
Neal S. Beckford, M.D.	X				
George L. Eckles, Jr., M.D.	X				
Dennis A. Higdon, M.D.	X				
Gary Keith Lovelady, M.D.	X				
Mitchell L. Mutter, M.D.	X				
Barrett F. Rosen, M.D.	X				
Charles W. White, Sr., M.D.	X				
Michael D. Zanolli, M.D.	X				
Mark A. Brown	X				
Irene E. Wells	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Medical Examiners on 05/13/2008, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/05/08

Notice published in the Tennessee Administrative Register on: 04/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 05/13/08

Date: 2/20/09

Signature: [Handwritten Signature]

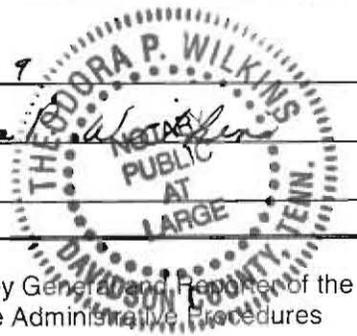
Name of Officer: Shiva K. Bozarth

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 2/20/2009

Notary Public Signature: [Handwritten Signature]

My commission expires on: 11/7/2011



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper

Robert E. Cooper, Jr.
Attorney General and Reporter

3-9-09

Date

Department of State Use Only

Filed with the Department of State on:

3/13/09

Effective on:

5/07/09

Tre Hargett

Tre Hargett
Secretary of State

SECRETARY OF STATE
PUBLICATIONS

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Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

(Please see attached)

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 2007, 2007 Pub.Acts, c. 464, § 4, eff. June 21, 2007, the Department of Health submits the following regulatory flexibility analysis:

- (1) The proposed rule amendment does not overlap, duplicate, or conflict with other federal, state, and local governmental rules.
- (2) The proposed rule amendment exhibits clarity, conciseness, and lack of ambiguity.
- (3) The proposed rule amendment clarifies existing licensure requirements and removes a provision that allowed unqualified applicants to gain licensure in the state. The proposed rules do not allow for flexible compliance or reporting requirements for physicians applying for licensure in Tennessee. The Department of Health and the Board of Medical Examiners believe that this is necessary to protect the health and safety of the citizens of the state.
- (4) The proposed rule amendment does not affect any schedules or deadlines for compliance and/or reporting requirements for small businesses.
- (5) The proposed rule amendment does not affect compliance or reporting requirements for small businesses.
- (6) The proposed rule amendment does not establish performance standards for small businesses as opposed to design or operational standards; and
- (7) The proposed rule amendment ensures that all physicians in this state will have a minimum level of training. Although this may create entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs; these qualifications are necessary to ensure that the citizens of the state receive an adequate level of care from physicians.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES.

Types of small businesses that will be directly affected by the proposed rules:

Applicants for licensure who are international medical school graduates and who intend to practice as sole proprietors, or as members of a partnership, or as shareholders of a professional corporation, or as members of a limited liability company; and

Medical practices that employ or intend to employ international medical school graduates.

Types of small businesses that will bear the cost of the proposed rules:

Small businesses will not bear the costs of the proposed rule in any greater proportion than any other business. The only type of small business that will be affected by the costs of this rule amendment will medical practices that employ international medical school graduates or international medical school graduates that serve as independent contractors.

Types of small businesses that will directly benefit from the proposed rules:

The Board does not anticipate that there will be direct benefits to small businesses.

Description of how small business will be adversely impacted by the proposed rules:

Small businesses will not be more adversely impacted than large businesses. It may take some international medical school applicants for licensure longer to obtain their license to practice medicine. All applicants, including those employed by large and small businesses, will have increased training costs for a three (3) year residency or will have to wait to obtain actual specialty board certification rather than being eligible for that certification.

Medical practices may have increased difficulties in filling positions if some international medical school graduates cannot become licensed or would be delayed in becoming licensed.

Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:

There are no alternatives to the proposed rule that would ensure that physicians licensed in this state would have either three (3) years of residency training or hold specialty board certification.

Comparison of the proposed rule with federal or state counterparts:

Federal:

The Board is not aware of any federal counterparts. The federal government does not license physicians.

State:

Eleven other states accept specialty certificates as a substitute for residency training when applying for a license to practice medicine. All other state medical boards require international applicants to have residency training or allow some sort of waiver of the residency requirement upon application.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Rules of the Board of Medical Examiners are amended to reflect the following:

0880-2-.04 Licensure Process – International Medical School Graduates — The current rule’s requirements for licensure allow a international medical school graduate to waive the three (3) year residency requirement if they can show that they are eligible to hold specialty board certification or actually hold specialty board certification. This amendment will delete the phrase “or is eligible to hold such certification” to make clear that the board will not waive the requirement unless the applicant actually possesses the specialty board certification.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The amendments to the Board of Medical Examiners rules are made pursuant to Tenn. Code Ann §63-6-101(a)(3).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The amendments affect International Medical School Graduates who have not completed a three (3) year residency program and who are eligible for, but do not hold, specialty board certification.

No oral comments were received at the rulemaking hearing. No written comments were received at the rulemaking hearing.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known opinions of the attorney general or any judicial ruling which relate to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency’s annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There is no estimated financial impact to the department or licensees as a result of these rule changes.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rosemarie Otto, Executive Director of the Board of Medical Examiners, and Shiva K. Bozarth, staff attorney for the Board, possess substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Shiva K. Bozarth, Assistant General Counsel

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel; Plaza One, Suite 210; 220 Athens Way; Nashville, Tennessee 37243 (telephone: 741-1611)

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

MINUTES

RULEMAKING HEARING

TENNESSEE BOARD OF EXAMINERS

MAY 13, 2008

The rulemaking hearing for the Tennessee Board of Examiners was called to order at 2:00 p.m., Central Daylight Time, on May 13, 2008 in the Department of Health Conference Center's Poplar Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee.

No members of the public attended the rulemaking hearing. No written or oral comments were received at the rulemaking hearing.

The rulemaking hearing concluded at 2:30 p.m., Central Daylight Time.



Matthew J. Scanlan, Deputy General Counsel
Division of Health Related Boards

5-13-08

Date