

Rulemaking Hearing Rules

Board of Medical Examiners

Chapter 0880-2
General Rules and Regulations Governing the Practice of Medicine

Chapter 0880-5
General Rules and Regulations Governing the Utilization
of X-Ray Operators in Physician's Offices

Amendments

Rule 0880-2-.08 Examination, is amended by deleting subparagraph (2) (a) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) (a) shall read:

(2) (a) The Board adopts the NBME's and the USMLE's determination of the passing scores for each Part or Step of their examinations.

1. Passing Score for Subsequent Attempts for Failure of any Part or Step

- (i) When an applicant fails to attain the passing score on any Part or Step of either the NBME or the USMLE and subsequently retakes that Part or Step, the passing score for each retake will be the NBME's and the USMLE's recommended minimum passing two-digit score plus one (1) additional point for each time that the Part or Step is retaken due to failure of the Part or Step.
- (ii) It is the intent of this rule to:
 - (I) Not reward persons who have become familiar with a Step or Part of a licensure examination due to multiple retakes necessitated by previous failures; and
 - (II) Increase the passing two-digit score cumulatively according to the number of times the applicant has had to retake the Part or Step because of a previous failure of that Part or Step. (Example - If an applicant has failed Step 2 of the USMLE on the three (3) previous attempts, the applicant as he or she attempts Step 2 for the fourth time will, in order to pass the Step, need to obtain the USMLE's recommended minimum passing two-digit score for Step 2 plus one additional point for each of the previous three (3) failures.)
- (iii) This cumulatively increasing passing score requirement of this rule shall not apply in clearly exigent circumstances when its application would work a manifest injustice or when the applicant, subsequent to the failure of any Part or Step of either examination, has obtained specialty board certification.

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

Rule 0880-5-.04 Qualifications for Full and Limited Certification, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) Certification areas:
- (a) Limited certification is available until June 1, 2008 from the Board in the following specific specialty areas:
 - 1. Chest
 - 2. Extremities
 - 3. Skull - AP/PA and Lateral Skull Only, and Sinuses
 - 4. Lumbar Spine - AP and Lateral Lumbar Spine Only
 - (b) After June 1, 2008 limited certification is available from the Board in only the following specific specialty areas:
 - 1. Chest
 - 2. Extremities
 - 3. Skull and Sinus
 - 4. Spine
 - (c) Persons who hold a limited certification in "Lumbar Spine - AP and Lateral Lumbar Spine Only" pursuant to part (1) (a) 4. may have their certification changed to reflect the expanded specialty area "Spine" listed in part (1) (b) 4. by submitting to the Board's administrative office on or before June 1, 2012 documentation of having completed a course(s) that includes instruction in all of the following subject areas.
 - 1. Cervical – includes AP/PA, lateral, obliques, and open mouth odontoid.
 - 2. Thoracic – includes AP/PA, lateral, and Swimmers.
 - 3. Lumbar – includes AP/PA, lateral, spot lateral of L5-S1, and obliques.
 - (d) On June 1, 2012 those who have not submitted the necessary documentation to obtain the expanded designation as required by subparagraph (1) (c) shall not be authorized to participate in the expanded areas in the "spine" certification and their certification will entitle them to only take AP and Lateral Lumbar Spine radiographs.
 - (e) On June 1, 2008, the certificates that are designated "Skull - AP/PA and Lateral Skull Only, and Sinuses" shall automatically be converted to the designation "Skull and Sinus" without any further action by the holder of such limited certification.

Authority T.C.A. §§ 63-6-101 and 63-6-224.

Rule 0880-5-.05 Educational Course, Approval and Curriculum for Limited Certification, is amended by deleting subparagraphs (2) (b) and (2) (c), subpart (2) (d) 2. (i), part (2) (d) 3. and part (2) (d) 4. in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (b) and (2) (c), subpart (2) (d) 2. (i), part (2) (d) 3. and part (2) (d) 4. shall read:

(2) (b) Specialty Areas - Defined as the study of radiography of a particular anatomical part including human structure and function, radiographic positioning and procedures, and evaluation of radiographs.

Each separate specialty area course shall minimally consist of the following amount of classroom clock hours:

1. Chest — ten (10) classroom clock hours;
 2. Extremities — until June 1, 2008 ten (10) classroom clock hours and thereafter forty (40) classroom clock hours;
 3. Skull and Sinuses — ten (10) classroom clock hours; and
 4. Spine — until June 1, 2008 ten (10) classroom clock hours and thereafter thirty (30) classroom clock hours.
- (2) (c) Clinical Training - Defined as "hands-on" observation and participation in the production of diagnostic radiographs. Clinical training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a fully-licensed and registered operator (A.R.R.T. technologist) with at least three (3) years experience when appropriate. This training shall minimally consist of the following amount of clinical clock hours for each specialty area in which certification is sought:
1. Chest — until June 1, 2008 sixty (60) clinical clock hours and thereafter thirty (30) clinical clock hours;
 2. Extremities — until June 1, 2008 sixty (60) clinical clock hours and thereafter eighty (80) clinical clock hours;
 3. Skull and Sinuses — until June 1, 2008 sixty (60) clinical clock hours and thereafter thirty (30) clinical clock hours; and
 4. Spine — until June 1, 2008 sixty (60) clinical clock hours and thereafter eighty (80) clinical clock hours.
- (2) (d) 2. (i) Upper Extremity — includes all routine views of the fingers up through the pectoral girdle.
- (2) (d) 3. Skull and Sinuses
- (i) Skull — includes AP/PA, Townes and Lateral.
 - (ii) Sinuses — includes upright PA/Caldwell, Lateral, and Waters.
- (2) (d) 4. Spine - Prior to June 1, 2008 shall be limited to only the AP/PA and Lateral Lumbar Spine but thereafter for those who have complied with rule 0880-5-.04 (1) (c) shall include the following:
- (i) Cervical — includes AP/PA, lateral, obliques, and open mouth odontoid.
 - (ii) Thoracic — includes AP/PA, lateral, and Swimmers.
 - (iii) Lumbar — includes AP/PA, lateral, spot lateral of L5-S1, and obliques.

Authority: T.C.A. §§ 63-6-101 and 63-6-224.

Rule 0880-5-.07 Obtaining and Upgrading Full and Limited Certification, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Upon approval for issuance of certification, the Board shall issue a certificate which contains either the specific radiological limitations as reflected by the application materials received or "full certification" as that term is defined in Rule 0880-5-.01 (2).

Authority: T.C.A. §§ 63-6-101 and 63-6-224.

Rule 0880-5-.09, Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the existing subparagraph (1) (b) as (1) (c):

- (1) (b) Two (2) of the required twenty (20) biennial continuing education hours must be pertaining to appropriate statutes, rules and regulations, and other subjects that would be directly related to compliance with, and/or penalties for non-compliance with the statutes, rules and regulations. This course must include content pertaining to the A.R.R.T.'s Standards of Ethics if the certificate holder is fully certified.

Authority: T.C.A. §§ 63-6-101 and 63-6-224.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 27th day of May, 2008, and will become effective on the 10th day of August, 2008. (FS 05-10-08; DBID 2886)

Economic Impact Statement

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Amendment to 0880-2-.08

Applicants for licensure as a medical doctor who have had to retake part or all of the United States Medical Licensing Examination (USMLE) and do not presently qualify for licensure because of the current rule's minimum passing score for retakes; and

Medical practices and other health care providers which seek to employ the above applicants for licensure.

Amendments to 0880-5

Providers of classroom education and clinical training for limited scope x-ray operators; and

Limited scope x-ray operators who provide their services in physician offices as independent contractors, rather than as employees; and

Physicians, who as employers of limited scope x-ray operators, pay for and/or provide their classroom education and clinical training.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

As of December 31, 2006, Tennessee had 18,776 licensed medical doctors and 2,726 certified x-ray operators who were eligible for licensure or certification renewal.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed amendments have no increased or new reporting, recordkeeping and other administrative costs that are required for compliance.

(4) Statement of the probable effect on impacted small businesses and consumers:

Amendment to 0880-2-.08

The types of small business identified in # 1 will benefit from the proposed rules because some individuals will be eligible for licensure that are not presently so.

Amendments to 0880-5

Providers of classroom education for limited scope x-ray operators will initially have additional routine course development and presentations expenses because of the proposed changes to requirements but will also have additional routine revenue coming from the increase in required classroom education. The proposed net reduction in clinical training may have only minimal impact to providers of clinical training because some specialties require increased clinical training while others require less clinical training.

Anyone who bears the cost of the classroom education and/or clinical training will be adversely impacted if the applicable specialties result in additional expenses for education and/or training.

Physicians, who as employers of limited scope x-ray operators, may have less need for the services of higher-paid, fully certified (RTs) x-ray operators.

(5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

Amendment to 0880-2-.08

The Board believes that because this proposed amendment eases licensure requirements for some applicants, it is the less burdensome alternative.

Amendments to 0880-5

The Board believes there is no alternative to requiring education and training in quantities sufficient to protect the health, safety and welfare of Tennesseans.

(6) Comparison of the proposed rule with any federal or state counterparts:

Federal The Board is not aware of any federal counterparts. Physicians and x-ray operators are not licensed by the federal government.

State

Amendment to 0880-2-.08

This proposed amendment is more consistent with other state's regulations than is the current rule because a physician who is nationally certified in a medical specialty will no longer be barred from licensure in Tennessee because of an initial failure of an exam.

Amendments to 0880-5

Of the thirty-five (35) states which issue limited x-ray licenses, thirty-three (33) of those states (as well as the Tennessee Board of Osteopathic Examination) do not limit the spine specialty's scope of practice.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because most of the impacted small businesses are the Board's licensees and certificate holders. T.C.A. § 63-6-101 states the Board has a duty to "examine the qualifications of all applicants for certification of fitness to practice medicine or surgery in this state, to conduct disciplinary hearings, and to make such rules and regulations as are necessary to carry out and make effective the provisions of this chapter." Also, because the Board recognizes it does not regulate educational course providers to the same extent and in the same manner as it regulates physicians and x-ray operators, it has attempted to minimize the amount of rules which pertain to them. However, rules which pertain to general education requirements and continuing education requirements will inherently affect course providers.