

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;"><b>(All Comments submitted on this regulation will appear on IRRC's website)</b></p>	<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <p style="font-size: 2em; font-weight: bold; margin: 10px 0;">RECEIVED</p> <p style="margin: 0;">Independent Regulatory Review Commission</p> <p style="margin: 0;">May 7, 2024</p>
<p>(1) Agency</p> <p style="margin-left: 20px;">Department of State, Bureau of Professional and Occupational Affairs, State Board of Osteopathic Medicine</p>	<p>IRRC Number:</p> <p style="margin-left: 40px;">3399</p>
<p>(2) Agency Number: 16A</p> <p style="margin-left: 20px;">Identification Number: 5336</p>	
<p>(3) PA Code Cite:</p> <p style="margin-left: 20px;">49 Pa. Code §§ 25.1; 25.231; 25.241; 25.242; 25.244; 25.248; 25.249; 25.251; 25.254; 25.262–25.264; and 25.303</p>	
<p>(4) Short Title:</p> <p style="margin-left: 20px;">Licensure Requirements</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p style="margin-left: 20px;">Primary Contact: Dana Wucinski, Board Counsel, State Board of Osteopathic Medicine, P.O. Box 69523, Harrisburg, PA 17106-9523; phone (717) 783-7200; fax (717) 787-025; <a href="mailto:dwucinski@pa.gov">dwucinski@pa.gov</a>.</p> <p style="margin-left: 20px;">Secondary Contact: Marc Farrell, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523; phone (717) 783-7200; fax (717) 787-0251; <a href="mailto:marcfarrel@pa.gov">marcfarrel@pa.gov</a>.</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> <b>PROPOSED REGULATION</b></p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p style="margin-left: 20px;">This proposed rulemaking includes amendments to licensure requirements as well as amendments related specifically to licensure by endorsement under 63 Pa.C.S. § 3111.</p> <p style="margin-left: 20px;">With regard to licensure requirements, the proposed amendments for osteopathic physicians and surgeons are necessary to reflect the merger of the post-graduate training bodies for osteopathic (DO) medical school graduates and allopathic (MD) medical school graduates into a single accreditation system. In addition, the amendments remove the practical (clinical skills) examination licensure requirement because the practical exam component has been discontinued by the national examination provider.</p>	

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires the State Board of Osteopathic Medicine (Board) 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 by methods determined by the Board; 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 determines such conduct is not an impediment to granting the license; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the Board determines such discipline is not an impediment to granting the license; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, the terms of expiration for which the Board must set by regulation.

(8) State the statutory authority for the regulation. Include specific statutory citation.

63 Pa.C.S. § 3111 requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant, provided the applicant meets certain criteria for eligibility and pays fees established by the Board by regulation. The Board is proposing regulations to implement § 3111(a)(1)–(5), relating to information required to determine: whether another jurisdiction is substantially equivalent; the methods of competency; whether an applicant has committed an act that would be grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice in the profession or occupation in this Commonwealth, and whether such acts should be an impediment to licensure; disciplinary actions and whether such discipline should be an impediment to licensure; and the fee as established by the Board by regulation. 63 Pa.C.S. § 3111 also requires boards and commissions that issue provisional licenses, certificates, registrations or permits to set the expiration of the provisional endorsement license by regulation.

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) into Title 63, Chapter 31 of the Pennsylvania Consolidated Statutes. 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) (Act 41). This rulemaking effectuates Act 41.

Additionally, section 16 of the Osteopathic Medical Practice Act (act) (63 P.S. § 271.16) and section 3 of the Acupuncture Licensure Act (ALA) (63 P.S. §§ 1801—1806.1) provide the Board with broad authority to adopt regulations as are reasonably necessary to carry out the purposes of the act and the ALA.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

63 Pa.C.S. § 3111(a)(5) requires the Board to set the fee to be charged by regulation and subsection (b)(2) requires the Board to set an expiration of the provisional endorsement license. Otherwise, this rulemaking is not mandated by any Federal or state law or court order, or Federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulatory package serves several purposes. First, amendments are needed to reflect the merger of the American Osteopathic Association (AOA) graduate training accreditation with the Accreditation Council for Graduate Medical Education (ACGME) into a single accreditation system (SAS). As a result of the merger, osteopathic medical school graduates may obtain training through a program referred to as an “internship” or through a “residency,” and the types of training available to osteopathic medical school graduates have also evolved. The proposed rulemaking updates and/or replaces references to AOA-approved internships to accommodate both ACGME and SAS-approved internships and residencies as well as the consequent increase in the availability of graduate training programs for osteopathic medical school students. A further amendment is proposed to change the title of the graduate training authorization to reflect the authorization to practice issued by the Board, thereby making it consistent with the nomenclature used in reference to graduate medical education. These amendments provide the needed clarity for all graduates of osteopathic medical colleges and training programs, regardless of whether such training occurred before or after the merger.

Second, the proposed amendments remove the practical examination requirement in the existing license by endorsement provisions set forth in 49 Pa. Code § 25.242. Specifically, under the current regulations, an applicant for a license by endorsement who has not successfully completed a clinical skills examination is required to do so prior to the issuance of a license by endorsement. Prior to 2006, the national examination and some state examinations did not include a clinical skills component. As a result, the practical effect is that under the current regulations, a physician who passed an exam before 2006 and actively practiced for more than ten years in another state is often faced with having to demonstrate clinical competency through a skills examination in order to become licensed in the Commonwealth. The Board recognizes that the clinical skills examination is an unnecessarily burdensome measure of competency for experienced providers. Thus, the Board determined that an applicant’s fulfillment of all other existing requirements for licensure by endorsement as set forth in § 25.242 is sufficient. While it is impossible to capture data reflecting the number of osteopathic physicians who have not applied in Pennsylvania because of the practical examination requirement, it stands to reason that the practical examination requirement would be a strong dissuading factor.

Third, the regulation is needed to implement 63 Pa.C.S. § 3111 to provide for licensure by endorsement to applicants from other states, territories and countries. Act 41 was enacted due to a recognition that licensed professionals from other jurisdictions have difficulty obtaining a license to practice in this Commonwealth. Licensure by endorsement under 63 Pa.C.S. § 3111 helps eliminate unnecessary barriers to licensure for citizens from other jurisdictions and for military personnel and their spouses while maintaining sufficient safeguards to ensure public protection. 63 Pa.C.S. § 3111 enables boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) to issue a license by endorsement, and further provides for a provisional endorsement license to quickly move these professionals into the workforce without unnecessary delays, which reduces barriers to employment.

Since the effective date of Act 41 (August 30, 2019), the Board has issued 40 physician licenses by endorsement under 63 Pa.C.S. § 3111. The Board anticipates that the proposed removal of the practical examination requirement in § 25.242 may draw some applicants who would have otherwise applied for licensure under 63 Pa.C.S. § 3111. Nevertheless, it is anticipated that the regulations effectuating 63

Pa.C.S. § 3111 will benefit approximately 15 applicants per year. It is important to note that the United States is the only country in which doctors of osteopathic medicine are trained as fully-licensed physicians. The Board has not issued licenses, certificates, registrations or permits to any of the other professions regulated by the Board. However, the regulation would provide a pathway to licensure for allied professionals from other countries or territories as needed.

On a global level, the benefit of the regulatory package is that experienced osteopathic physicians will likely find the Commonwealth to be a more attractive workplace consideration. With high veteran and elderly populations, the Commonwealth needs competent healthcare providers to care for its citizens. The regulations implementing 63 Pa.C.S. § 3111 are an overt expression of the Board's desire to attract skilled and experienced healthcare workers and retain graduates of the Commonwealth's osteopathic medical colleges.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation will not adversely affect Pennsylvania's ability to compete with other states. The purpose of 63 Pa.C.S. § 3111 is to make it easier for out-of-state applicants - including military spouses - who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of 63 Pa.C.S. § 3111 is also to reduce barriers to employment, which will make Pennsylvania more competitive. 63 Pa.C.S. § 3111 and the Board's proposed regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

New Jersey has a comprehensive licensure by endorsement law that is applicable to the various professional licensing boards in New Jersey. Similar to 63 Pa.C.S. § 3111, New Jersey requires its professional licensing boards to issue a license to any person who holds a current professional or occupational license in good standing whose licensure standards are substantially equivalent to the current standards of New Jersey. Similar to 63 Pa.C.S. § 3111, New Jersey requires applicants to demonstrate competency through its requirement of practicing within five years prior to the date of the application. Thus, Pennsylvania's competency requirements are similar to New Jersey. Additionally, unlike the Board's proposed regulations, New Jersey does not authorize a board to issue a discretionary provisional license.

### REGIONAL COMPARISON

In comparing the proposed regulation as it relates not only to licensure by endorsement under 63 Pa.C.S. § 3111, but also to licensure by endorsement under 49 Pa. Code § 25.242 to other states' licensure requirements, the Board researched states in the Northeastern region of the United States to determine whether other state health boards have similar licensure by endorsement laws and regulations applicable to the medical and allied health professions. For those states that have similar licensure by endorsement

laws and regulations applicable to the medical and allied health professions, the Board compared the following criteria: eligibility requirements (substantial equivalence or other standard); competency methods; English proficiency; and provisional licenses, including expiration of the provisional license.

All states listed below accept AOA or ACGME accredited post-graduate training to satisfy the training requirements for licensure. Several states, including New Hampshire and Maine, accept equivalent training programs for licensure.

### Connecticut

Connecticut licenses acupuncturists, athletic trainers, genetic counselors, perfusionists, physicians, physician assistants and respiratory care specialists, but only offers a license by endorsement option to acupuncturists and genetic counselors.

A license by endorsement may be granted to any acupuncturist applicant who holds a current, valid acupuncturist license in good standing in another state or territory of the U.S. if that state or territory maintains licensing standards equal to or higher than Connecticut's requirements. Unlike 63 Pa.C.S. § 3111, there is no competency requirement. There is no provisional license option for these applicants nor is there an English proficiency requirement.

A license by endorsement may be granted to any genetic counselor applicant who presents satisfactory evidence that the applicant is licensed or certified in another state or jurisdiction that has requirement for practicing in such capacity that are substantially similar to, or higher than, those of Connecticut, as long as there are no disciplinary actions or unresolved complaints pending in Connecticut or any other state. A temporary permit is available to genetic counselors who hold a master's degree or higher in genetic counseling or a related field. Unlike 63 Pa.C.S. § 3111, there is no competency requirement. The temporary permit is valid for one year and the permit holder must practice under the general supervision of a licensed genetic counselor or a licensed physician. There is no English proficiency requirement.

There is no endorsement option offered to physicians, physician assistants, athletic trainers, perfusionists or respiratory care specialists. However, physicians may be eligible for a license without examination provided that the applicant obtained a license after an examination substantially similar to, or of higher quality than, that which is required in Connecticut and has met all other qualifications for licensure, such as education and training, in Connecticut.

### Delaware

Delaware licenses acupuncturists, genetic counselors, physicians, physician assistants and respiratory care practitioners, but does not offer licensure by endorsement or a provisional license for any of those license types.

An applicant for a license as an osteopathic physician is eligible to apply for a waiver of the written and/or examination requirement when the applicant is licensed in another state.

Delaware does offer a license by reciprocity for athletic trainers licensed in good standing in another state, the District of Columbia or other territory of the U.S., who received a passing score on a Board approved national examination. A temporary license is offered to reciprocity applicants but requires direct supervision of either a licensed physical therapist or a licensed athletic trainer. The temporary permit expires at a time determined by the Board. There is no English proficiency requirement for licensure by

endorsement for athletic trainers.

Delaware does not license perfusionists.

### Maine

Maine licenses acupuncturists, athletic trainers, physicians, physician assistants and respiratory therapists.

Maine offers a license by endorsement for acupuncturists who are licensed in a jurisdiction whose standards for licensure are substantially equivalent to Maine's requirements for licensure.

Maine does offer licensure by endorsement for physicians, which can be granted without examination when the applicant is licensed in another state, subject to the board's discretion.

Maine does not offer licensure by endorsement for physician assistants.

Maine does not offer provisional licenses but offers a temporary license for physicians only when the action is necessary to provide relief for local or national emergencies or for situations in which the number of physicians is insufficient to supply adequate medical services or for physicians to serve as locum tenens for another licensed physician.

There is no English proficiency requirement for endorsement or reciprocity in Maine. Unlike 63 Pa.C.S. § 3111, there is no competency requirement.

Maine does not license genetic counselors or perfusionists.

### Maryland

Maryland licenses acupuncturists, athletic trainers, perfusionists, physicians, physician assistants and respiratory therapists. Of those professions, Maryland only offers a license by endorsement to perfusionists who have active licenses in another state with substantially equivalent standards for licensure and a clear criminal history.

Maryland does not offer a license by endorsement to physicians but does offer a license by reciprocity to physician applicants who have an active, unrestricted license to practice medicine in another jurisdiction that, at the time the applicant was licensed, had licensure requirements substantially equivalent to the Board's current licensure requirements and offers a similar reciprocal licensure process to physicians licensed by the Board. The applicant must be in good standing under the laws of every jurisdiction where the individual is licensed and must submit to a state and national criminal history records check in accordance with the Maryland code.

Maryland requires English proficiency as a requirement for initial licensure for acupuncturists, physicians and physician assistants, which may be taken into consideration when evaluating the substantial equivalence standard for a license by reciprocity. Unlike 63 Pa.C.S. § 3111, there is no competency requirement.

Maryland does not offer a provisional license option for perfusionists applying by endorsement or for other applicants applying by reciprocity.

Maryland does not license genetic counselors.

### Massachusetts

Massachusetts licenses acupuncturists, athletic trainers, genetic counselors, perfusionists, physicians, physician assistants and respiratory therapists.

Of these professions, Massachusetts offers a license by endorsement to acupuncturists, perfusionists and respiratory therapists, if they are licensed in another state with substantially similar licensing standards. Unlike 63 Pa.C.S. § 3111, there is no competency requirement for licensure by endorsement for these professions. Massachusetts does not offer applicants a provisional license and does not require English proficiency for endorsement applicants.

Although Massachusetts does not offer a specific endorsement license, current licensure in another state may be used as a component when the standard post-graduate training requirements cannot be fulfilled by the applicant.

### New Hampshire

New Hampshire licenses athletic trainers, genetic counselors, physicians and physician assistants, but does not offer a license by endorsement to any of these professions.

New Hampshire does, however, offer a license by reciprocity to genetic counselors if the license requirements of the licensing state are equivalent or greater than the requirements of New Hampshire. There is no English proficiency requirement and no provisional license offered for a license by reciprocity. Unlike 63 Pa.C.S. § 3111, there is no competency requirement.

New Hampshire does not license perfusionists.

### New Jersey

New Jersey has the authority to issue a license by endorsement to acupuncturists, athletic trainers, genetic counselors, physicians, physician assistants and perfusionists under its practice acts. New Jersey does not have an English proficiency requirement for licensure by endorsement.

New Jersey does not offer a license by endorsement for respiratory therapists.

The NJ Board has many temporary license provisions for applicants, but none of them fall under its licensure by endorsement or reciprocity provisions.

### New York

New York licenses acupuncturists, athletic trainers, perfusionists, physicians, physician assistants and respiratory therapists.

New York only offers a license by endorsement to physicians and physician assistants who meet certain requirements. Physicians and physician assistants licensed in other states or Canada are eligible for a license by endorsement if they have passed a comparable licensing examination acceptable to New York. These applicants may establish competency by having no less than two years of satisfactory professional

experience. For those licensed in a foreign country, competency may be established with no less than five years of satisfactory professional experience or practice following licensure. New York does require English proficiency for all applicants. New York does not offer a provisional license to applicants.

While there is no endorsement option offered to the other allied health professionals, New York does offer a license by reciprocity to acupuncturists if their licensing state or country is deemed satisfactorily aligned with New York's regulations for licensure. New York does not offer a license by endorsement or by reciprocity to athletic trainers, perfusionists or respiratory therapists.

New York does not license genetic counselors.

### Ohio

Ohio licenses acupuncturists, athletic trainers, genetic counselors, physicians, physician assistants and respiratory therapists. Of these professions, Ohio only offers a license by endorsement to physicians, physician assistants and athletic trainers.

Physicians are eligible for a license by endorsement if they have diplomate or licentiate status with the National Board of Medical Examiners or licensure status with the Medical Council of Canada and have taken and passed an acceptable examination.

Physician assistants are eligible for a license by endorsement if they have a current, valid license or other form of authority to practice as a physician assistant issued by another jurisdiction and if they are able to establish competency by having been in active practice in any jurisdiction throughout the two-year period immediately preceding the date of application.

Athletic trainers are offered a license by endorsement if they are licensed in another state that has standards greater than or equal to Ohio's requirement for licensure. There is no competency requirement for athletic trainers to obtain this license.

English proficiency is a requirement for initial license in Ohio for physicians and physician assistants. There is no provision which allows for a provisional license for endorsement applicants.

Ohio does not license perfusionists.

### Rhode Island

Rhode Island licenses acupuncturists, athletic trainers, physicians and physician assistants, but only offers a license by endorsement to acupuncturists and physicians. There are no English proficiency requirements for endorsement applicants and no provisional license is offered. Unlike 63 Pa.C.S. § 3111, there is no competency requirement.

Physicians are eligible for a license by endorsement if they hold an unrestricted license in every jurisdiction the applicant holds a license, meet the minimum requirement for licensure and have no formal disciplinary actions, active or pending investigations or other sanctions.

Acupuncturists are eligible for a license by endorsement if the applicant is licensed in good standing as a doctor of acupuncture in all states and territories where the applicant holds a license.



Rhode Island does not license genetic counselors or perfusionists.

### Vermont

Vermont licenses acupuncturists, athletic trainers, physicians, physician assistants and respiratory care practitioners. Of those professions, Vermont offers licensure by endorsement for athletic trainers, respiratory care practitioners and acupuncturists if the applicant is licensed in another state whose licensing requirements are substantially equivalent to Vermont's licensing requirements. There is no competency requirement for these applicants.

While Vermont does not offer an endorsement option for physicians, they do allow for a waiver of examination if an applicant is a physician who holds an unrestricted license in another U.S. or Canadian jurisdiction. Vermont does have an English proficiency requirement for physicians for initial licensure.

Vermont does not offer a provisional license option for endorsement applicants and does not require English proficiency.

Vermont does not license genetic counselors or perfusionists.

### West Virginia

West Virginia licenses acupuncturists, athletic trainers, physicians, physician assistants and respiratory care practitioners. Of those professions, West Virginia offers licensure by endorsement to physicians and respiratory care practitioners who can establish that they hold a valid license in another jurisdiction whose licensure requirements are equivalent to or greater than those required in West Virginia. There is no competency requirement for these applicants.

A temporary license is offered only to physicians applying for a license by endorsement. The temporary license is only valid until the application is either granted or denied.

West Virginia does not license genetic counselors or perfusionists.

### COMPETITIVE ABILITY

The proposed regulations will enhance the competitive advantage of the Commonwealth. First and foremost, by amending the regulations to specifically allow acceptance of AOA and ACGME training programs, the Commonwealth will be on the same plane as surrounding states. Similarly, the elimination of the practical examination requirement removes a significant burden to potential licensees. Those proposed amendments, coupled with the barrier-reducing effect of 63 Pa.C.S. § 3111, will make it easier for individuals licensed in another jurisdiction to obtain a license, registration, certificate or permit in the Commonwealth. Many of the surrounding states do not offer licensure by endorsement and, for those that do, the standards are generally similar to those required by Pennsylvania, save for the competency requirement. To counteract any slight disadvantage, Pennsylvania offers provisional licenses for physicians and allied health professionals, providing a unique option available in the Commonwealth. The provisional license provides applicants with the flexibility of simultaneously practicing while completing the remaining endorsement requirements. Furthermore, the Board offers a license by endorsement option for physicians *and* all allied health professions licensed under the Board, while the majority of surrounding states do not have a comparably comprehensive provisional license or licensure by endorsement scheme. In the rare scenario where the applicant does not meet the Board's licensure standards, the option to obtain

a provisional license is available. Therefore, the proposed regulations put Pennsylvania at a competitive advantage as compared to many other states.

Ultimately, by adding the alternate path to licensure by endorsement under 63 P.S. § 3111, modernizing the training requirements and eliminating the practical examination requirement, the Commonwealth is paving the way for experienced osteopathic physicians to become licensed in this state and encouraging graduates of the Commonwealth's osteopathic medical colleges to remain.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking does not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Board discusses its regulatory proposals at regularly scheduled public meetings of the Board. Representatives of the professional associations representing the regulated community routinely attend those meetings. In drafting the proposal, in August of 2020 and November of 2020, the Board solicited comments from stakeholders and interested parties. The Board considered input and information provided by the AOA, the Pennsylvania Osteopathic Medical Association (POMA), the University of Pittsburgh Medical Center (UPMC) and the Pennsylvania Society for Respiratory Care (PSRC). Overall, the comments were supportive of the Board's commitment to aligning the licensure qualifications with the current landscape of osteopathic medical education and training as well as licensure by endorsement as a whole. A list of stakeholders is attached as Attachment A.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

For purposes of this rulemaking, the Board estimates that approximately 15 osteopathic physician applications for a license by endorsement will be considered under 63 Pa C.S. § 3111 on an annual basis, as the Board has issued 40 physician licenses by endorsement under 63 Pa.C.S. § 3111 since Act 41 went into effect on August 30, 2019.

Thus far, the Board has not received licensure by endorsement applications for any of the allied health professions. The Board is unable to determine the number of applications for physician licensure by endorsement under existing regulations at 49 Pa. Code § 25.242 because the application data minable from the licensing system is indistinguishable from a standard physician application.

According to the 2022 Small Business Administration (SBA) Profile, there are approximately 1.1 million businesses in Pennsylvania, with 99.6 percent of those being small businesses. Of the 1,074,787 small

businesses, 46.2% are small business employers (those with fewer than 500 employees) and employ approximately 2,512,633 employees. The remaining 578,235 small businesses are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

The Pennsylvania Department of Labor and Industry (L&I) does not have specific data for Osteopathic Physicians. In 2022, L&I reported 7,381 businesses of physicians and allied health professionals which employ 120,132 employees and operate 18,538 offices of physicians. A 2022 report by the American Osteopathic Association (2022 Osteopathic Medical Profession (OMP) Report – Osteopathic Founders Foundation) reports that Pennsylvania is second only to California as employing the most Osteopathic Physicians in the United States at 10,824. The U.S. Bureau of Labor Statistics reported in 2021 that 53% of Osteopathic Physicians work in offices of physicians, 25% work in hospitals (state, local and private), 6% are self-employed, 5% work for the Federal government and 4% work in outpatient care centers.

According to the L&I, in 2020 (the most recent year for which data is available) – and without distinguishing between osteopathic practitioners and allopathic practitioners – the relevant allied health professionals were employed as follows:

Physician Assistants: 53% employed in offices of physicians, 26% in hospitals, 8% in outpatient care centers, 5% in educational services and 1% in employment services.

Respiratory Therapists: 82% in hospitals, 4% in nursing care facilities and 2% in offices of physicians.

Athletic Trainers: 38% in educational services, 20% in hospitals, 14% in offices of physical, occupational and speech therapists and audiologists, 5% in fitness and recreational sports centers and 3% self-employed.

Perfusionists: 78% in hospitals, 10% in offices of physicians, 3% in outpatient care centers and 1% in other ambulatory healthcare services and specialty (except psychiatric and substance abuse hospitals).

Genetic Counselors: 46% in hospitals, 11% in offices of physicians, 10% in colleges, universities and professional schools, 11% in medical and diagnostic laboratories and 3% self-employed.

While there are no specific statistics on physicians and surgeons, the L&I reports that many physicians and surgeons work in physician offices while others work in hospitals, academia or for the government.

No statistics were available relating to acupuncturists.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). This industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathic Medicine) primarily engaged in the independent practice of general or specialized medicine (e.g., anesthesiology, oncology, ophthalmology, psychiatry) or surgery. These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.

In applying the NAICS standards to the types of businesses where licensees may work, offices of physicians (NAICS code 621111) are considered small businesses if they have \$14 million or less in average annual receipts; general medical and surgical hospitals (NAICS Code 622110) are considered small businesses if they have \$41.5 million or less in average annual receipts; all other outpatient care

centers (NAICS code 621498) are considered small businesses if they have \$22.5 million or less in average annual receipts; educational services including colleges, universities and professional schools (NAICS code 611310) are considered small businesses if they have \$30.5 million or less in average annual receipts; offices of all other miscellaneous healthcare practitioners (NAICS code 621399) are considered small businesses if they have \$9 million or less in average annual receipts; offices of physical, occupational and speech therapists and audiologists (NAICS code 621340) are considered small businesses if they have \$11 million or less in average annual receipts; and medical laboratories (NAICS code 621511) are considered small businesses if they have \$36.5 million or less in average annual receipts.

Based on this variety of employers, the Board believes that most medical professionals in Pennsylvania are employed in small businesses. However, the Board does not collect information on the size of the businesses where its licensees are employed. Therefore, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its licensees either are or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

Individuals who apply for licensure by endorsement under 63 Pa.C.S. § 3111 would be impacted by the fee to apply for licensure. This fee is the same amount as applicants who apply by the existing endorsement option under section 15 of the act (63 P.S. § 271.15).

Whether small businesses will be impacted by the regulations depends on whether the businesses would pay the application fee for an employee's licensure by endorsement application. Because the application fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring their employees to pay their own licensure costs.

Moreover, the proposed rulemaking has a positive impact in that it is implementing 63 Pa.C.S. § 3111, which provides an additional pathway to licensure that previously did not exist. By eliminating an impediment to licensure, the proposed rulemaking also positively impacts osteopathic physicians applying by endorsement who would otherwise have been required to take and pass the practical exam despite having practiced for many years.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Applicants for licensure as an osteopathic physician by examination and by endorsement applicants will be required to comply with the proposed rulemaking. In addition, applicants for licensure by endorsement under 63 Pa. C.S. § 3111 will be required to comply with the proposed rulemaking. This includes osteopathic physicians and surgeons as well as the osteopathic allied health professions under the Board's purview, namely, acupuncturists, physician assistants, respiratory therapists, athletic trainers, perfusionists and genetic counselors. Small businesses will only be impacted to the extent they voluntarily pay licensure fees and other costs for applicants.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Commonwealth will benefit from licensure by endorsement under 63 Pa.C.S. § 3111 as well as all

other proposed changes. The purpose of 63 Pa C.S. § 3111 is to make it easier for out-of-state applicants, including military members and their spouses, who have an out-of-state professional or occupational license to work in Pennsylvania by removing extraneous processes that may have impeded or dissuaded qualified applicants. Also, by removing the practical examination requirement, the Board is encouraging experienced practitioners to choose a career path in the Commonwealth, thereby enhancing the workforce, providing more talent for businesses, and helping to grow Pennsylvania's economy. In addition, by amending the post-graduate training requirements to be more inclusive of the training programs currently available to graduates, the Board is encouraging graduates to train here and stay here post-graduation.

Furthermore, the citizens of the Commonwealth will benefit from the enhanced workforce and growth in economy while maintaining a level of assurance in the competency of professionals holding a license, certificate, registration or permit by endorsement. The Board has selected methods of competence, including licensed practice in the profession for any two of the last five years, to effectuate this goal. In relation to the existing license by endorsement provisions, the continuing education requirement coupled with active practice ensures the level of competency of which the Commonwealth's citizens are deserving.

The financial impact of the regulation falls primarily on the applicants and the Board. Individuals seeking licensure by endorsement will incur costs associated with qualifying for and obtaining a license. An applicant applying for licensure by endorsement under 63 Pa.C.S. § 3111 would be required to pay the application fee (physician, \$185; physician assistant, \$125; acupuncturist \$110; respiratory therapist \$110; athletic trainer, \$110; perfusionist \$130; genetic counselor, \$130). The application fee is directly correlated to the costs of processing the application. Within each of the professions regulated by the Board, the application fees are the same for all applicants applying for a license currently authorized by the act or a license by endorsement under 63 Pa.C.S. § 3111. Once the applicant applies for a license by endorsement and remits the initial application fee, the application is reviewed under both 63 Pa C.S. § 3111 and all existing statutorily-authorized endorsement provisions. Thus, if an applicant for initial licensure does not qualify under the act, the individual will not incur an additional fee for consideration under 63 Pa C.S. § 3111.

For applicants who wish to be considered under 63 P.S. § 3111, if the other jurisdiction's laws, regulations or other rules are in a language other than English, §25.248(a)(2) would require the applicant to have those laws, regulations or rules professionally translated at the applicant's expense. In addition to the foregoing application fee, an applicant for a license by endorsement is required to obtain, at their own expense, a Criminal History Record Check (CHRC).

The positive impact for the applicants is that 63 Pa.C.S. § 3111 and the proposed regulation provide a new pathway to licensure that did not previously exist.

Since the effective date of Act 41 (August 30, 2019), the Board has issued 40 physician licenses by endorsement under 63 Pa.C.S. § 3111. These applications were submitted by osteopathic physicians licensed in a U.S. state. Because the United States is the only country with the license category of osteopathic physicians, the Board has not received any licensure by endorsement applications from applicants licensed in other countries and territories, and realistically does not expect to receive many, if any, such applications moving forward. Aside from licensed osteopathic physician applicants, the Board has not received any licensure by endorsement applications for any of the allied professions. While the pathway to licensure by endorsement under 63 Pa.C.S. § 3111 will continue to be available for the allied professions, the Board does not expect to receive any such applications at this time.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As previously discussed, all of the proposed amendments, including those effectuating 63 Pa. C.S. § 3111, benefit this Commonwealth and its citizens and individual applicants wishing to obtain licensure. The costs associated with obtaining licensure are outweighed by the need of the Board to set fees to cover its costs for processing applications to maintain the fiscal integrity of the Board, and by the equity of assessing the costs of processing applications to the applicants themselves, as opposed to the existing licensee population bearing these costs through increased biennial renewal fees. The General Assembly contemplated and weighed the impact of imposing fees on applicants in 63 Pa.C.S. § 3111(a)(5) against the benefits of providing an additional pathway to licensure to individuals from other jurisdictions. While avoiding economic impact to applicants is always preferable, the General Assembly recognized that board fees are necessary to pay for the costs associated with the filing of applications. Additionally, an applicant for licensure by endorsement only pays one application fee to be considered under all endorsement pathways. Whether an applicant obtains licensure by examination or by endorsement, applicants pay the same fees, namely, the application fee and the CHRC fee. Therefore, for the most part, the additional cost to a licensure-by-endorsement applicant is minimal, if any.

Regarding the cost of translating the law, regulation or other rule to English, this is a necessary part of the application process. If the Board is unable to understand the other jurisdiction's requirements, it will not be able to determine whether those requirements are substantially equivalent. The Board does not anticipate that many applicants will incur this cost because no other country licenses doctors of osteopathic medicine in the same manner as the United States. Nevertheless, the Board would anticipate the cost for translation to be \$25 per page to translate from the most common languages, and range from between one and five pages in length.

Regarding costs associated with demonstrating competency, the Board is authorized to select the appropriate method of competency under 63 Pa.C.S. § 3111(a)(2) and has required that applicants demonstrate competency through experience in the practice of their profession for at least 2 of the 5 years immediately preceding the date of application in the jurisdiction that issued the license. Exclusive of acupuncturists, applicants will incur no costs to demonstrate competency. Acupuncturist applicants will be required to demonstrate English proficiency. If an applicant chooses to establish English proficiency by taking the Test of English as a Foreign Language (TOEFL) or similar examination, an applicant would incur a cost of approximately \$200 on average. This cost is not unique to acupuncturist applicants seeking licensure by endorsement under 63 Pa.C.S. § 3111. It is a cost that all acupuncturist applicants will incur if they demonstrate English proficiency via the TOEFL or a similar exam.

Additionally, completing the mandatory child abuse recognition and reporting training will not have a negative fiscal impact if the applicant chooses a free training course. Requiring licensees to take this training will have a positive impact on the profession and for Pennsylvania citizens because osteopathic medical professionals will be educated on recognizing child abuse and will also have specific training on how to report child abuse in this Commonwealth.

Applicants for a license by endorsement under the existing provisions at § 25.242 will save money as a result of the proposed amendment removing the practical examination requirement. The current fee for the practical examination is \$170. Applicants residing in other states frequently also incur the costs of travel to the Commonwealth for the two-day examination. It is difficult to quantify in a meaningful way the number of applicants who will benefit from this savings, and therefore it has not been factored into the calculations for the costs/savings numbers provided in response to question 23 below.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

An individual applying for physician licensure under any pathway will incur some costs, including paying the application fee (currently \$185 for physicians) and a CHRC fee. An individual obtaining a Federal Bureau of Investigation CHRC directly from the FBI 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.

Since the effective date of Act 41, the Board has received 40 physician licensure by endorsement applications from individuals licensed in other states. The costs incurred by each applicant was \$185 for the application fee and approximately \$20 for a CHRC (the average between the FBI fee and the PSP fee), for a total of \$205 per applicant.

The Board currently anticipates it will receive very few, if any, applications for osteopathic physicians licensed in other countries or territories. The Board also anticipates it will receive few, if any, applications for the allied professions. Therefore, the costs/savings numbers provided in response to question 23, below, are for osteopathic physicians only, and do not include any translation costs nor any English language proficiency costs.

Based upon this information, the Board anticipates approximately 15 licensure by endorsement applications from osteopathic physicians licensed in other states each year, which will result in approximate costs in the amount of \$205 (\$185 + \$20) per applicant. For 15 applicants, the total costs would be  $\$205 \times 15 = \$3,075$ . As set forth in the Board's fee schedule at § 25.231, the application fee amount for osteopathic physicians will be increasing to \$205 effective July 1, 2024. Therefore, as of that date, total costs will be  $\$205 + \$20$  (CHRC fee) = \$225 per applicant x 15 applicants = \$3,375.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation would not result in costs or savings to local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board will incur operational costs to develop a separate application and implement licensure by endorsement under 63 Pa.C.S. § 3111. The costs associated with all other amendments will be minimal in that the application questions will need to be updated. The costs incurred by the Board should be recouped in the form of application fees paid by the applicants.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping, or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There should be no legal, accounting or consulting procedures associated with this rulemaking. Like all other applicants under the Board, affected individuals will be required to apply for licensure accompanied by required documentation.

(22a) Are forms required for implementation of the regulation?

Yes, applicants are required to submit an online application.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The Bureau utilizes an online platform for the submission of applications for all licensure applications through the Pennsylvania Licensing Systems (PALS), including applications for licensure by endorsement under 63 Pa.C.S. § 3111 and 49 Pa. Code §§ 25.241–25.242. Within the online platform, applicants are asked a series of questions, including whether they are currently licensed in another jurisdiction and the type of license for which they are applying. Applicants currently licensed in another jurisdiction, which is defined in the proposed rulemaking as another state, territory or country, are directed to 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, translated into English if needed.

Applicants are required to indicate whether they have been disciplined by the jurisdiction in which they are licensed or any other jurisdiction. Applicants with a disciplinary history must upload appropriate documentation related to the discipline. Applicants must also provide a recent Criminal History Record Check (CHRC) from the state police, other state agency or other appropriate agency of a territory or country that is the official repository for criminal history record information for every jurisdiction in which they have lived, worked, or completed professional training/studies in the past five (5) years. Applicants also must upload a National Practitioner’s Databank (NPDB) report, letters of good standing, curriculum vitae, proof of training and examinations and medical malpractice insurance, if required. Based upon the above, applications are forwarded to Board counsel, and to the Board, if necessary, to determine eligibility under 63 Pa.C.S. § 3111. The Bureau is working towards creating a more detailed electronic application process specific to 63 Pa.C.S. § 3111 applications which will decrease the need for manual review of applications. The Board attaches hereto a paper application which will be the basis for developing the electronic licensure by endorsement application. (See Attachment B).

The changes required by the amendments to 49 Pa. Code §§ 25.241–25.242 will simply require a language change in the application.



(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY 23-24</b>	<b>FY +1 24-25</b>	<b>FY +2 25-26</b>	<b>FY +3 26-27</b>	<b>FY +4 28-29</b>	<b>FY +5 29-30</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
<b>Regulated Community</b>	<b>\$3,075</b>	<b>\$3,075</b>	<b>\$3,375</b>	<b>\$3,375</b>	<b>\$3,375</b>	<b>\$3,375</b>
<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Costs</b>	<b>\$3,075</b>	<b>\$3,075</b>	<b>\$3,375</b>	<b>\$3,375</b>	<b>\$3,375</b>	<b>\$3,375</b>
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Local Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>State Government</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3 2020-2021</b>	<b>FY -2 2021-2022</b>	<b>FY -1 2022-2023 (YTD)</b>	<b>Current FY (budgeted) 2023-2024</b>
<b>State Board of Osteopathic Medicine</b>	<b>\$ 1,604,193.05</b>	<b>\$ 1,291,015.82</b>	<b>\$ 1,333,442.63</b>	<b>\$ 3,194,000.00</b>

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

RESPONSES

- (a) This rulemaking will not have an adverse impact on small businesses unless small businesses voluntarily pay application fees or other costs relating to establishing competency. Because these fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.
- (b) This rulemaking will not impose additional reporting, recordkeeping, or other administrative costs on small businesses.
- (c) The probable effect on impacted small businesses would be positive because 63 Pa.C.S. § 3111 and the Board’s regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania’s economy.
- (d) The Board could discern no less costly or less intrusive alternative methods to effectuate the purpose of 63 Pa.C.S. § 3111 that would be consistent with the Board’s mandate to produce enough revenue to cover its costs of operations and to administer the act in the public interest. The amendments to 49 Pa. Code §§ 25.241–25.242 are less intrusive and costly than the current practical examination requirement.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed for any affected groups or persons.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered and rejected. The Board believes this proposal represents the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

### RESPONSES

- (a) & (b) The Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. All applicants for licensure are treated equally.
- (c) There are no compliance or reporting requirements that could be consolidated or simplified. The application process is the same whether a particular licensee is employed by a small business or a large business.
- (d) The regulations do not contain design or operational standards that need to be altered for small businesses.
- (e) To exclude any applicant from the requirements contained in the regulation based on the size of their employers would not be consistent with 63 Pa.C.S. § 3111 or 49 Pa. Code § 25.242.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data, studies or references were used to justify the regulation.

(29) Include a schedule for review of the regulation including:

- |   |   |
|---|---|
| A. The length of the public comment period:   | <u>30 days.</u>   |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>No public hearings were scheduled or held. The Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at public board meetings on: June 13, August 18 and December 12, 2018; October 23 and December 11, 2019; June 10, August 12 and October 14, 2020; February 10 and June 9, 2021; October 12, 2022; and February 8, 2023.</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>Fall 2024.</u>   |
| D. The expected effective date of the final-form regulation:                                | <u>Upon publication as final.</u>   |
| E. The date by which compliance with the final-form regulation will be required:            | <u>Upon publication as final.</u>   |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>  |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board's remaining meeting dates in 2024 are: April 10, June 5, August 15, October 9 and December 4, 2024.

More information can be found on the Board's website:

<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/OsteopathicMedicine/Pages/default.aspx>.

# **ATTACHMENT “A”**

List of Stakeholders- OSTEO

Physician and hospital regulations

Pennsylvania Osteopathic Medical Association (POMA)  
1330 Eisenhower Blvd  
Harrisburg, PA 17111  
poma@poma.org

The Hospital & Healthsystem Assoc. of Pennsylvania (HAP)  
Director, Clinical Compliance & Quality  
30 N. Third St., Ste. 600  
Harrisburg, PA 17101

Philadelphia College of Osteopathic Medicine  
4150 City Ave.  
Philadelphia, PA 19131  
Attn: Medical Education

Lake Erie College of Osteopathic Medicine  
1858 W. Grandview Blvd  
Erie, PA 16509

Stevens & Lee  
1818 Market Street  
29<sup>th</sup> floor  
Philadelphia, Pa. 19103

Vivian Lowenstein  
1124 Beverly Road  
Jenkintown, PA 19046  
Vivian.cnm@verizon.net

Dana Perlman  
723 Arden Road  
Jenkintown, PA 19046  
dperlman@comcast.net

Julie Cristol, CNM  
4709 Windsor Avenue  
Philadelphia, PA 19143  
juliecristol@yahoo.com

The Winter Group  
Attn: Angie Mellott Armbrust, Senior Associate  
234 North Third Street  
Harrisburg, PA 17101  
Phone: 717-909-9560  
Fax: 717-909-9563  
aarmbrust@wintergrouppa.com

Pennsylvania Medical Society (PAMEDSOC)  
Attn: Andrew Harvan  
777 E. Park Drive  
P.O. Box 8820  
Harrisburg, PA 17105-8820  
Phone: (717) 558-7750  
aharvan@pamedsoc.org

Pennsylvania Coalition of Nurse Practitioners (PACNP)  
P.O. Box 1071  
Jenkintown, PA 19046  
Phone (866) 800-6206  
Fax (866) 217-1751  
pcnp@pacnp.org

Pennsylvania Society of Physician Assistants (PSPA)  
Attn: Susan DeSantis  
P.O. Box 128  
Greensburg, PA 15601  
Phone:(724) 836-6411  
Fax:(724) 836-4449  
E-mail:pspa@pspa.net

Pennsylvania State Nurses Association (PSNA)  
Attn: Wayne E. Reich, Jr. RN, BSN, Deputy Chief Executive Officer  
2578 Interstate Drive, Suite 101  
Harrisburg, PA 17110  
Phone: 717-657-1222  
Fax: 717-657-3796

Federation of State Medical Boards Inc  
Attn: Dana Fuqua  
Legislation & Legal  
400 Fuller Wiser Road, Suite 300  
Eules, TX 76039-3855  
dfuqua@fsm.org

Physician Assistant regulations

Updated on 1-14-22

PA Society for Physician Assistants  
P.O. Box 128  
Greensburg, PA 15601

PA Assoc. Medical Staff Services  
201 State Street  
Erie PA 16550

#### Athletic Trainers

Craig C. McKirgan, DO  
Center for Orthopaedics & Sports Medicine, PC  
119 Professional Center, Suite 307  
1265 Wayne Avenue  
Indiana, PA 15701

Kathy Speaker MacNett  
One South Market Square  
213 Market Street, 3<sup>rd</sup> Floor  
Harrisburg, PA 17101  
ksm@skarlatoszonarich.com

Joe McGurrin  
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Jacksonville, FL 32210  
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Amy L. Nelson, Esquire  
Wellspan Health  
45 Monumental Road  
Suite 200  
York PA 17403

Raine Richards, Esquire  
Legislative Associate | State Government Affairs  
AMERICAN OSTEOPATHIC ASSOCIATION  
142 E. Ontario St.  
Chicago, IL 60611-2864

Nick Schilligo  
AMERICAN OSTEOPATHIC ASSOCIATION  
142 E. Ontario St.  
Chicago, IL 60611-2864



**Interested in Phys. Asst. changes (8-12-19)**

Joey Wisner, PA-C  
wisnerjs@comcast.net

Anthony Guarracino, DO  
aguarracino@pinnaclehealth.org

Amy Gerney, POTA  
president@pota.org

Donna Pittman  
Aama.pittman@gmail.com

Lisa C. Stevenson  
Senior Associate Counsel  
Employment and Labor Law, UPMC  
claypoolle@upmc.edu  
Phone: 412.647.8243

Kerry E. Maloney, Esq.  
UPMC, Legal Services  
maloneyke@upmc.edu

# **ATTACHMENT “B”**

Osteopathic Medicine- Osteopathic  
Physician and Surgeon- Application  
Initial  
[Application Number]



BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

P. O. Box 2649

Harrisburg, PA 17105-2649

APPLICANT INFORMATION

PERSONAL INFORMATION							
Last Name				First Name			
Middle Name				Suffix			
Full Name							
SSN		Date Of Birth		Age		Gender	
ADDRESS DETAILS							
Street Address							
City/State/Zip							
County						Country	
CONTACT DETAILS							
Phone number				Mobile Phone number			
Primary Email Address				Secondary Email Address			
EDUCATION DETAILS							
School Name	School Type	School Address	Degree	Major	Attended From	Attended To	Graduation Date
CHECKLIST ITEMS							
Checklist name	Status				Submitted Date	Expiration Date	
Application							
Application Fee							
Child Abuse CE							
Criminal History Check							
Criminal History Check- Pennsylvania							
Databank Report							
Graduate Training							
Letter of Good Standing (LOGS)							
National Examination							
Opioid CE							
Pennsylvania Exam	This checklist item will be removed						
Record of Graduation							
Resume Curriculum Vitae							

**LEGAL QUESTIONS**

Questions	Answer	Document Uploaded	File Name
1 Do you hold or have you ever held a license, certificate, permit, registration or other authorization to practice in any health-related profession in any state or jurisdiction?			
2 Please provide the profession and state or jurisdiction.			
3 Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?			
4 Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?			
5 Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?			
6 Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?			
7 Have you ever had your DEA registration denied, revoked or restricted?			
8 Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?			
9 Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?			
10 Have you ever been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?			
11 Do you currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?			
12 Since May 19, 2002, have any malpractice complaints been filed against you? If yes, the Board requires that you submit a copy of the <b>entire Civil Complaint</b> which must include the <b>docket number, filing date,</b> and the <b>date you were served</b> . Submit a statement which includes complete details of the complaints that have been filed against you.			
13 Docket Number:			
14 Filing Date:			
15 Date you were served:			

**STANDARD QUESTIONS**

Questions		Answer
1	Will any of your supporting documents be submitted under another name or names?	
2	Please insert in the text box your other name or names.	
3	Submit a copy of the legal document evidencing the name change (i.e., marriage license, divorce decree, naturalization, etc.)	
4	Indicate the Licensing Examination(s) passed:	
5	Please select the State	
6	<del>Have you passed an Osteopathic Manipulation Examination that included a practical component?</del>  <del>*Note: If you selected "No", you must also register for the Osteopathic Manipulation Therapy Exam with Pearson VUE.</del>	Question 6 will be removed from new application
7	<del>Please select the type of practical OMT exam that you have passed.</del>	Question 7 will be removed from new application
8	Are you a servicemember, veteran, or military spouse?	
9	Please upload documentation demonstrating your status as a Servicemember, veteran or military spouse.	

**PA VETERANS REGISTRY**

Questions		Answer
1	Have you served in the U.S. Armed Forces?	
2	Thank you for your service. Would you like to register with the PA Veterans Registry? The PA Veterans Registry provides veterans with information about federal, state and local benefits, programs and services that are available to Pennsylvania veterans and links veterans with resources that can provide assistance. Registration is quick and easy, and provides the Department of Military and Veterans Affairs (DMVA) with a way to contact you regarding the benefits and services you may be eligible for. If you check "Yes," you will receive an email with instructions to assist you in registering.	

**CONFIRMATION**

<input checked="" type="checkbox"/>	Any fees paid are non refundable. ( Date and time stamp )
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**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

Independent Regulatory  
Review Commission

May 7, 2024

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u>Amy M. Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Chief Deputy Attorney General, email=ae Elliott@attorneygeneral.gov, c=US Date: 2024.04.24 14:49:19 -0400'</small></p> <p><u>4/24/24</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>State Board of Osteopathic Medicine</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-5336</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>John B. Bulger</u> JOHN B. BULGER, D.O.</p> <p>TITLE <u>BOARD CHAIRPERSON</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>Adrian [Signature]</u> (Deputy General Counsel) <del>(Chief Counsel, Independent Agency)</del> (Strike inapplicable title)</p> <p><u>2/21/2024</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**PROPOSED RULEMAKING**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF OSTEOPATHIC MEDICINE**

**TITLE 49 PA CODE CHAPTER 25**

**§§ 25.1, 25.241, 25.242, 25.244, 25.248. 25.249, 25.251, 25.254, 25.262—25.264 and 25.303**

**LICENSURE REQUIREMENTS**

The State Board of Osteopathic Medicine (Board) proposes to amend Chapter 25 by amending §§ 25.1, 25.231(a), 25.241, 25.242, 25.244, 25.251, 25.254, 25.262—25.264 and 25.303, and adding §§ 25.248 and 25.249 (relating to licensure by endorsement under 63 Pa.C.S. § 3111; and provisional endorsement license under 63 Pa.C.S. § 3111) to read as set forth in Annex A.

### ***Effective Date***

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

### ***Statutory Authority***

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires 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: “[h]olds 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;” “[d]emonstrates competency;” “[h]as 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;” “[i]s 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” this conduct is not an impediment to granting the “license, certificate, registration or permit;” and the applicant “[p]ays any fees established by. . .regulation.” Additionally, 63 Pa.C.S. § 3111(b) 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.

Section 16 of the Osteopathic Medical Practice Act (act) (63 P.S. § 271.16) and section 3 of the Acupuncture Licensure Act (ALA) (63 P.S. § 1803) provide the Board with broad authority to adopt regulations as are reasonably necessary to carry out the purposes of the act and the ALA.

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) (Act 41).

### ***Background and Need for the Amendments***

This proposed rulemaking is needed for several purposes. Amendments are necessary as a result of the transition of the American Osteopathic Association (AOA) and the Accreditation Council for Graduate Medical Education (ACGME) into a single accreditation system (SAS). The transition was completed effective July 1, 2020. Under the new system, graduates of osteopathic

medical schools (D.O.s) and allopathic medical schools (M.D.s) complete their postgraduate training in ACGME-accredited programs. To address the foregoing, the proposed rulemaking seeks to remove the definitions of “approved graduate osteopathic medical training,” “approved internship” and “approved residency” in § 25.1 (relating to definitions) and to provide more specificity relating to internships and graduate training programs at §§ 25.262 and 25.263 (relating to approved internships; and other approved graduate training programs), respectively. Instead, the Board proposes a new definition of “graduate medical training” to encompass either an approved internship or an approved residency.

Next, the Board proposes amendments to the licensure requirements for an unrestricted license by examination as set forth in § 25.241 (relating to unrestricted license by examination). The proposed regulations reflect the current status of national examination and licensure. First, commencing in 2023, the National Board of Osteopathic Medical Examiners (NBOME) will no longer require a practical examination for passage of the NBOME series of examinations. Thus, it is necessary to remove this requirement as it relates to licensure by examination. Second, the proposed regulation updates the training requirement for licensure to include both an approved internship and an approved residency. This proposed amendment is consistent with the series of graduate training years undertaken by osteopathic medical school graduates. Third, the Board proposes to add an allowance for an NBOME successor to be accepted for licensure by examination purposes.

In keeping with the proposed amendments to § 25.241 pertaining to approved internships and residencies, a corresponding amendment is needed for the Board’s existing licensure-by-endorsement pathway. Specifically, with the elimination of the practical examination by the NBOME in 2023, the Board determined that its own regulatory requirement that calls for passage of a practical examination to obtain a license by endorsement, as set forth in § 25.242(4) (relating to unrestricted license by endorsement), is inconsistent with the national standards for licensure. Furthermore, the practical examination requirement for a license by endorsement under § 25.241 is only applicable to a minute segment of the applicant population, most of whom have practiced for decades prior to submitting a licensure application to the Board. Rather than serve its initial purpose of ensuring competency to engage in the holistic practice of osteopathic medicine, the practical examination requirement has evolved into an unnecessary burden on otherwise experienced and qualified applicants seeking to practice in the Commonwealth. To remove this burden, the Board proposes to remove the practical examination requirement from § 25.241.

Next, the Board proposes to amend § 25.244 (relating to temporary license). The amendments to the title and body of this section change the license type from a “temporary license” to a “temporary graduate training license” because these licenses are used by graduates of osteopathic medical colleges to practice within the confines of graduate training programs. Generally, graduate training programs consist of more than 1 year of training; therefore, the Board also proposes to amend this section to specifically allow for renewal of the license upon the payment of the required fee. The Board’s fee schedule at 25.231(a) is amended to reflect the revised nomenclature, “temporary graduate training license.”

This proposed rulemaking is further needed to effectuate 63 Pa.C.S. § 3111, which requires



the Board to issue a license to an applicant who is licensed in another jurisdiction and meets the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether the other 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 demonstrating 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 must establish, by regulation, the expiration of the provisional endorsement license. This proposed rulemaking would include two new sections to set forth the criteria for eligibility for licensure by endorsement under 63 Pa.C.S. § 3111, namely, § 25.248 which sets forth the specific methods required for an applicant to demonstrate competency, and § 25.249 which sets forth the requirements for granting a provisional endorsement license.

The Board proposes to amend § 25.251 (relating to general requirements), pertaining to unrestricted licensure by examination, to delete references to the practical examination because the practical examination will not be a required component of the National Board Examination beginning in 2023. The Board also proposes to include a successor to the NBOME examination, to avoid future need for regulatory clarification or confusion should the NBOME merge with another organization or become defunct. In keeping with other proposed amendments set forth herein, the Board also proposes to add completion of an approved residency as a method for an applicant to satisfy the training prerequisite to unrestricted licensure.

The Board proposes to delete § 25.254 (relating to frequency and content of examinations). The frequency of examinations is addressed in the act itself, at 63 P.S. § 271.8(a) and (f). The content of the examinations is obsolete given that the National Board Examination will no longer contain a practical examination component. Deletion of § 25.254 is also consistent with the Board's proposed removal of the practical examination as a requirement for issuance of a license by endorsement under § 25.242.

The Board further proposes to amend §§ 25.262 and 25.263 (relating to approved internships; and other approved graduate training programs). The current regulations require an applicant for licensure as an osteopathic physician to complete an AOA-approved internship. The reasons for revising this requirement are two-fold. First, as a result of the new single accreditation system, the AOA no longer approves postgraduate training programs. Second, with the single accreditation system now in place, graduates of osteopathic medical schools can be matched into an ACGME-accredited program with osteopathic recognition, an ACGME-accredited rotating internship, an ACGME-approved residency, or a specialty or subspecialty residency. Without changes to the prerequisite graduate training, the Commonwealth will have difficulty retaining osteopathic medical school graduates of schools located within the Commonwealth. Likewise, it will be difficult to attract students from other states to train within the Commonwealth. Furthermore, the current regulations direct the Board to work with the AOA to evaluate and approve internships and other graduate training programs, which is no longer possible given that the AOA is no longer the graduate training approval body.

For those reasons, the Board proposes to update § 25.262(a) to list the types of approved

internships. The Board believes this list reflects the current internship landscape and provides the clarity needed for the graduate and applicant population. Relating to subsection (b), the AOA Board of Trustees does not approve internship programs occurring after June 30, 2022; thus, an amendment is proposed to allow for the continuation of Board discretion in approving graduate training programs that are not specifically identified in the regulations without dependence on AOA action.

Similarly, the Board proposes to amend § 25.263 to remove AOA reference and dependence and provide a list of residencies and other graduate training programs that are approved by the Board to satisfy the requirements of licensure. As with the approved internships, the amendments to this section provide a conciseness and clarity relating to the types of approved programs, thus negating any need for a separate definition.

The Board also proposes to amend § 25.264 (relating to approval dates) to delete subsection (a), which relates to applications occurring between July 1, 1992 and June 30, 1993, as it is no longer relevant. Subsection (b), as amended, is sufficiently specific to encompass the training completed by all applicants for licensure.

Finally, to maintain consistency with § 25.248, the Board proposes to amend § 25.303 (relating to requirements for registration as an acupuncturist and an acupuncturist supervisor). so that the means by which an acupuncturist applicant can establish English language proficiency are the same for all such applicants, not just those applying for licensure by endorsement under 63 Pa.C.S. § 3111.

### ***Description of Proposed Amendments***

The Board proposes to amend § 25.1 to add, delete and amend several terms and definitions. The Board adds and defines the acronyms ABMS (American Board of Medical Specialties), ACGME (Accreditation Council for Graduate Medical Education) and PGY (post-graduate year). The Board deletes the term “approved graduate osteopathic medical training” and adds the simpler term “graduate medical training,” which is defined to encompass the various graduate training options available. The terms “approved internship” and “approved residency” are deleted because the definitions are unnecessary in view of the substantive provisions relating to internships and residencies that are delineated in amended §§ 25.262 and 25.263, respectively. The term “jurisdiction” is added and defined. The term “National Board Examination” is amended to identify the exam provider referenced throughout the regulations, and to include the possibility of a successor to the examination.

The Board proposes to amend § 25.241 to remove specific reference to the numbered parts of the National Board Examination, clarify to whom examination fees should be paid, remove reference to the practical examination, and include the option of completing an approved residency to satisfy licensure requirements. The Board is also deleting references to the Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1006) which has been repealed and replaced with the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910).

Section 25.242 sets forth the Board’s existing licensure by endorsement requirements. Subsection (4) is proposed to be deleted in its entirety to remove the requirement that an applicant for a license by endorsement receive a passing score on the osteopathic diagnosis and manipulative therapy examination administered by the Board or a professional testing organization. Subsection (5) is updated to include the successful completion of an approved residency as an acceptable form of training prerequisite to licensure.

The Board proposes to amend § 25.244, changing “temporary graduate training licenses” to “temporary graduate training licenses.” The section would further be amended to specifically allow for renewal of the license upon application and payment of the required fee. Corresponding amendments are proposed to the Board’s fee schedule at 25.231(a) to reflect the revised nomenclature, “temporary graduate training license.”

The Board proposes to add § 25.248 (relating to licensure by endorsement under 63 Pa.C.S. § 3111), which requires an applicant to satisfy nine criteria required for licensure by endorsement. Under § 25.248(a)(1), an applicant shall have a current license, certificate, registration or permit in good standing to practice as an osteopathic physician and surgeon, acupuncturist, physician assistant, respiratory therapist, athletic trainer, perfusionist or genetic counselor, as applicable, in another jurisdiction whose standards for licensure are substantially equivalent to or exceed those under the act, or the Acupuncture Licensure Act (ALA) (63 P.S. §§ 1801—1806.1).

Proposed § 25.248(a)(1)(ii) would also require the standards for licensure to be substantially equivalent to standards set forth in the Board’s regulations, including, as applicable, the regulatory requirements under §§ 25.161, 25.241, 25.303, 25.507, 25.704, 25.803, 25.903 or 25.904, pertaining to licensure as a physician assistant, an osteopathic physician, an acupuncturist, a respiratory therapist, an athletic trainer, a perfusionist, or a genetic counselor, respectively.

Proposed § 25.248(a)(2) would require an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure and scope of practice in the jurisdiction that issued the license. Section 25.248(a)(2)(i) would be applicable to countries where the applicable law, regulation or other rule is in a language other than English. The Board proposes to require, at the applicant’s expense, translation of the applicable law, regulation or other rule by a professional translation service. Section 25.248(a)(2)(ii) would also require that the copy of the applicable law, regulation or other rule include the enactment date. The purpose of this section is to allow the Board to evaluate the licensure requirements of the other jurisdiction to determine whether their licensure standards are substantially equivalent to those of this Commonwealth.

In proposed § 25.248(a)(3), the Board would set forth the requirements to demonstrate competency. Under this provision, an applicant for a license by endorsement under 63 Pa.C.S. § 3111 to practice as an osteopathic medical physician and surgeon, acupuncturist, physician assistant, respiratory therapist, athletic trainer, perfusionist or genetic counselor must provide proof of competency by demonstrating experience in the practice of the applicable profession. To demonstrate competency by experience, an applicant must demonstrate the licensed practice of the profession for at least 2 of the 5 years immediately preceding the filing of the application, under a

license, certificate, registration or permit in a substantially equivalent jurisdiction or jurisdictions. This means that the individual must establish to the Board that they practiced for any 2 of the preceding 5 years while holding the license, certificate, registration or permit in the profession for which the applicant is applying.

Section 25.248(a)(4) and (5) would incorporate the statutory prohibitions in 63 Pa.C.S. § 3111(a)(3) and (4) pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license, respectively.

Proposed § 25.248(a)(6) would require payment of an application fee, as required by 63 Pa.C.S. § 3111(a)(5). The applicable fee for licensure by endorsement is the same application fee already set forth in § 25.231 (relating to schedule of fees) for each of the professions licensed by the Board.

Next, § 25.248(a)(7) would require that applicants meet the malpractice insurance requirements under the act, section 3.2 of the ALA (63 P.S. § 1803.2) and this chapter. Similarly, proposed § 25.248(a)(8) would require applicants to satisfy application requirements, as set forth in the act and this chapter. In § 25.248(a)(9), the Board proposes to include the requirement that an applicant complete 3 hours of training in child abuse recognition and reporting, which is mandated continuing education under the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

Finally, proposed § 25.248(a)(10) would require that applicants for an acupuncturist license by endorsement demonstrate English proficiency. This subsection is consistent with § 25.303 (relating to requirements for registration as an acupuncturist). To demonstrate English proficiency, an applicant for an acupuncturist license by endorsement may take an English proficiency examination, including the Test of English as a Foreign Language (TOEFL), the Occupational English Test (OET) or an English proficiency examination equivalent to the TOEFL or OET, as approved by the Board. In following the spirit of 63 Pa.C.S. § 3111, which encourages elimination of unnecessary barriers to licensure, the Board also offers other options that allow an applicant to demonstrate English proficiency, including the following: the applicant's professional education program was in English; the applicant's professional training was in an English-speaking facility; the applicant's entry examination to practice in the profession was in English; or the applicant was required to demonstrate English language proficiency to be issued a license in the jurisdiction in which the applicant is licensed. The Board will make available a list of Board-approved English language proficiency (or any successor examinations) on its website.

In proposed § 25.248(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video conference or teleconference for good cause shown. Consistent with 63 Pa.C.S. § 3111(a)(4) and (5), proposed § 25.248(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 15 of the act (63 P.S. § 271.15) or disciplinary action imposed by another jurisdiction are not impediments to the granting of a license, certificate, registration or permit under 63 Pa.C.S.

§ 3111.

Consistent with 63 Pa.C.S. § 3111(b), proposed § 25.249 (relating to provisional endorsement license under 63 Pa.C.S. § 3111) would set forth the parameters of a provisional endorsement license). Proposed § 25.249(a) provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and § 25.248. Proposed § 25.249(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed section § 25.249(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including: upon the granting or denial of a license by the Board; upon the failure of the provisional endorsement licensee to comply with the terms of the provisional endorsement license; or upon the expiration of the provisional endorsement license. Finally, proposed § 25.249(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 25.248, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Section 25.251 relates to the general requirements for licensure by examination. The Board proposes to amend § 25.251(a) to simply require passage of all parts of the National Board Examination. Section 25.251(b) would be amended to allow for an NBOME successor. To maintain consistency with several other changes proposed in this rulemaking, § 25.251(c) is proposed to be deleted. The Board proposes to amend § 25.251(d) to remove the requirement relating to eligibility for admission to the practical examination after graduation and to allow an approved residency to satisfy the licensure training prerequisite. Subsection (e) is deleted because it relates to applications for the practical examination. As set forth above relating to the proposed amendments to the unrestricted license by examination and unrestricted license by endorsement requirements, a practical examination will not be part of the national examination standards beginning in June 2023. Therefore, retention of information relating to application for the practical examination is unnecessary.

The Board proposes to delete § 25.254 in its entirety. The frequency of examinations is addressed in the act (63 P.S. § 271.8(a) and (f)). Additionally, the National Board Examination will no longer contain a practical examination component.

The Board proposes to amend § 25.262 to remove reliance upon the AOA for approved internships. The section is specifically amended to allow for a graduate of an osteopathic medical training program to satisfy the internship prerequisite in one of several ways. The amendment further allows for the Board to exercise discretion in approving internships, without limiting said discretion to exigent circumstances caused by the AOA.

The Board is also proposing amendments to § 25.263 to include approved residencies as graduate training programs. The section provides a list of approved residencies that will satisfy the residency prerequisite and also provides the Board with discretion to approve other graduate training programs not specifically identified in the list.

The Board proposes to amend § 25.264 to delete subsection (a) which relates to graduate training occurring between 1992 and 1993. Subsection (b) is amended to include approved residencies as acceptable training prerequisite to licensure.

Finally, to maintain consistency with the English language proficiency provisions proposed in § 25.248(10)(i)-(vii), the Board proposes to amend § 25.303 so that the means by which an acupuncturist applicant can establish English language proficiency are the same for all such applicants, not just those applying for licensure by endorsement under 63 Pa.C.S. § 3111.

### ***Fiscal Impact and Paperwork Requirements***

This proposed 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 under 63 Pa.C.S. § 3111 will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the initial application fees in § 25.231. Applicants will have to pay the same initial application fee as all other applicants for a license in each profession (osteopathic physician \$185, physician assistant \$125, acupuncturist \$110, respiratory therapist \$110, athletic trainer \$110, perfusionist \$130, genetic counselor \$130). All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. Applicants may avail themselves of free in-person and online child abuse recognition and reporting training courses; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training. If an acupuncturist applicant is unable to establish English proficiency by demonstrating that their education, training or examination was in English or by establishing that they were required to demonstrate English language proficiency to become licensed in their jurisdiction, they must take the TOEFL examination or another examination, with a cost to the applicant of approximately \$200.

### ***Sunset Date***

The Board continuously monitors the cost effectiveness of the Board's 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 May 7, 2024, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and House Professional Licensure Committee (HPLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

***Public Comment***

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Board Counsel, State Board of Osteopathic Medicine, P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail to [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov) within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference 16A-5336 (Licensure by Endorsement and Licensure Requirements), when submitting comments.

John B. Bulger, D.O.  
Chairperson

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE**

**Subchapter A. BASIC DEFINITIONS AND INFORMATION**

**§ 25.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

*ABMS*—The American Board of Medical Specialties.

*ACCME*—The Accreditation Council on Continuing Medical Education.

*ACGME*—The Accreditation Council for Graduate Medical Education.

*AMA PRA*—American Medical Association Physician’s Recognition Award.

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[*Approved graduate osteopathic medical training*—An approved internship or an approved residency.

*Approved internship*—An osteopathic rotating internship program approved by the AOA and the Board.

*Approved residency*—A training program approved by the AOA and the Board leading toward certification in a specialty or subspecialty.]

*Board*—State Board of Osteopathic Medicine.

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*FLEX*—The uniform written examination of the Federation of State Medical Boards of the United States, Inc.

*Graduate medical training*—An approved internship in accordance with § 25.262 (relating to approved internships) or an approved residency in accordance with § 25.263 (relating to approved residencies and other approved graduate training programs).

*Immediate family member*—A parent, a spouse, a child or an adult sibling residing in the same household.

*Jurisdiction*—a state, territory or country.

*NBOME*—The National Board of Osteopathic Medical Examiners.

*National Board Examination*—[The uniform written examination of the NBOME] The National Board of Osteopathic Medical Examiners (NBOME) Comprehensive Osteopathic Medical Licensing Examination (COMLEX) examination, or its successor.

*PGY*—Post-Graduate Year

\* \* \* \* \*

**Subchapter F. FEES**

**§ 25.231. Schedule of fees.**

(a) An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

		Effective August 15, 2020	Effective July 1, 2022	Effective July 1, 2024
(1) <i>Osteopathic</i>				

<i>Physician</i>				
	Application for unrestricted license to practice as an osteopathic physician – original reciprocal, boundary or by endorsement	\$170	\$185	\$205
	Application for short-term camp license as an osteopathic physician	\$100	\$110	\$120
	Temporary <u>graduate</u> training license or graduate training certificate	\$115	\$125	\$140
	Annual renewal of temporary <u>graduate</u> training license or graduate training certificate	\$25	\$25	\$25

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**Subchapter G. LICENSING, EDUCATION AND GRADUATE TRAINING**  
**LICENSURE REQUIREMENTS**

**§ 25.241. Unrestricted license by examination.**

To secure an unrestricted license for the practice of osteopathic medicine and surgery by examination, the applicant shall meet the following educational and professional requirements.

The applicant shall have:

- (1) Graduated from an approved osteopathic medical college.
- (2) Received [passing scores on Parts I, II and III of] a passing score on the National Board Examination. The applicant shall pay the required examination fee at the direction of the National Board Examination provider.
- (3) [Received a passing score on the practical examination in osteopathic diagnosis and

manipulative therapy developed and administered by the Board or a designated professional testing organization.] [Reserved].

(4) Successfully completed an approved internship in accordance with § 25.262 (relating to approved internships) or an approved residency in accordance with § 25.263 (relating to approved residencies and other approved graduate training programs).

(5) Complied with the malpractice insurance requirements of the [Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006)] Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910) and regulations thereunder.

(6) Completed an application obtained from the Board detailing education and experience and indicating compliance with the applicable provisions of the act and this chapter, submitted with the required fees.

**§ 25.242. Unrestricted license by endorsement under section 9 of the act.**

To secure an unrestricted license for the practice of osteopathic medicine and surgery by endorsement, the applicant shall meet the following educational and professional requirements.

The applicant shall have:

(1) Provided evidence of a valid license in good standing to practice osteopathic medicine and surgery in another state or territory of the United States or Canada whose standards are substantially equivalent to those established by the Board and who reciprocate with the Commonwealth.

(2) Graduated from an approved osteopathic medical college.

(3) Received a passing score on the National Board Examination, FLEX or a written state or territorial examination developed by the NBOME or otherwise acceptable to the Board.

(4) [Received a passing score on the practical examination in osteopathic diagnosis and

manipulative therapy developed and administered by the Board or a designated professional testing organization.] [Reserved].

(5) Successfully completed an approved internship in accordance with § 25.262 (relating to approved internships) or an approved residency in accordance with § 25.263 (relating to approved residencies and other approved graduate training programs).

(6) Complied with the malpractice insurance requirements of the [Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006)] Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910 and regulations thereunder.

(7) Completed an application obtained from the Board detailing education and experience and indicating compliance with the applicable provisions of the act and this chapter, submitted with the required fees.

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**§ 25.244. Temporary graduate training license.**

(a) A temporary graduate training license is required of an osteopathic medical college graduate for permission to participate in an approved graduate [osteopathic or] medical training program in this Commonwealth.

(b) Specific requirements for temporary graduate training [licensure] license are as follows.  
The applicant shall have:

(1) Graduated from an approved osteopathic medical college.

(2) Submitted an application obtained from the Board, together with the required fee.

(c) The temporary graduate training license permits the graduate to train only within the complex of the hospital and its affiliates where the graduate is engaged in an approved graduate

[osteopathic or] medical training program.

(d) The temporary graduate training license is valid for 1 year, [after which it shall be surrendered to the Board. The Board may extend the validity of the temporary training license within its discretion.] but may be renewed annually by the filing of a renewal form obtained from the Board and payment of the required fee.

\* \* \* \* \*

**§ 25.248. Licensure 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 established under the following:

(i) The act or the Acupuncture Licensure Act (ALA) (63 P.S. §§ 1801—1806.1).

(ii) Regulations of the Board at one of the following sections, as applicable:

(A) Section 25.161 (relating to criteria for licensure as a physician assistant).

(B) Section 25.241 (relating to osteopathic physician license without restriction).

(C) Section 25.303 (relating to requirements for registration as an acupuncturist).

(D) Section 25.507 (relating to criteria for licensure as a respiratory therapist).

(E) Section 25.704 (relating to application for licensure as an athletic trainer).

(F) Section 25.803 (relating to application for perfusionist license).

(G) Sections 25.903 or 25.904 (relating to application for genetic counselor license; or application for genetic counselor license by noncertified persons).

(2) An applicant shall 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.

(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 in the practice of the profession by establishing, 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 substantially equivalent jurisdiction or jurisdictions, for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(4) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice prohibited by section 15 of the act (63 P.S. § 271.15).

- (5) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.
- (6) Have paid the applicable application fee as required by § 25.231 (relating to schedule of fees).
- (7) Have satisfied the professional liability insurance coverage requirements as required under the act or section 3.2 of the ALA (63 P.S. § 1803.2) and this chapter.
- (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).
- (10) Applicants for an acupuncturist license by endorsement shall demonstrate English language proficiency by demonstrating one of the following:

  - (i) The applicant’s educational program was in English.
  - (ii) The applicant’s training was at an English-speaking facility.
  - (iii) The applicant’s entry examination was taken in English.
  - (iv) The applicant has achieved a scaled score of 83 on the Test of English as a Foreign Language (TOEFL) internet-based test, 220 on the TOEFL computer-based test or 550 on the TOEFL paper-based test, 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 website.
  - (v) The applicant has achieved a score of 350 in each of the four sub-tests of the Occupational English Test.

(vi) The applicant has achieved a passing score on an English language proficiency examination equivalent to the TOEFL or Occupational English Test, as determined by the Board. The Board will make available a list of equivalent Board-approved English language proficiency examinations on its website.

(vii) The applicant was required to demonstrate English language proficiency to be issued a license in the applicant’s jurisdiction.

(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 videoconference or teleconference for good cause shown.

(c) Prohibited acts and discipline. Notwithstanding subsections (a)(4) and (5), the Board may, in its discretion, determine that an act prohibited under section 15 of the act (63 P.S. § 271.15) or a disciplinary action taken by another jurisdiction is not an impediment to licensure under 63 Pa.C.S. § 3111.

**§ 25.249. 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 § 25.248.

(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. The Board, in its discretion,



may determine that an expiration date of less than 1 year is appropriate.

(2) Upon written request and a 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 licensure by endorsement under § 25.248 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

## LICENSURE EXAMINATIONS

### § 25.251. General requirements.

(a) An applicant is eligible for unrestricted licensure by examination only if the applicant has passed [the required written examination and the practical examination] the National Board Examination.

(b) An applicant shall apply directly to the NBOME or its successor for admission to the required parts of the National Board Examination and shall pay the required fees at the direction of the NBOME or its successor.

(c) [An applicant for admission to the practical examination in osteopathic diagnosis and

manipulative therapy shall be a graduate of an approved osteopathic medical college and shall fulfill the requirements of the act and this chapter.] [Reserved].

(d) An applicant [is eligible for admission to the practical examination after graduation from an approved osteopathic medical college, but] is not eligible for unrestricted licensure until the applicant has completed either an approved internship in accordance with § 25.262 (relating to approved internships) or an approved residency in accordance with § 25.263 (relating to approved residencies and other approved graduate training programs).

(e) [An applicant for the practical examination and State written, if applicable, may obtain an application form by contacting the Board office at the following address: State Board of Osteopathic Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.] [Reserved].

\* \* \* \* \*

**§ 25.254. [Frequency and content of examinations.] [Reserved].**

[(a) A minimum of two written examinations shall be administered each year.

(b) The practical examination in osteopathic diagnosis and manipulative therapy shall test diagnostic and therapeutic techniques applicable to the entire body.]

**EDUCATION AND GRADUATE TRAINING PROGRAMS**

\* \* \* \* \*

**§ 25.262. Approved internships.**

(a) [The Board will work cooperatively with the AOA under standards established by the Committee on Post-Doctoral Training of the AOA to evaluate and approve internship programs prerequisite to unrestricted licensure in this Commonwealth. AOA-approved programs are approved by the Board, but the Board may conduct or cause to be conducted inspections it deems

necessary to assure educational quality.] An approved internship program prerequisite to unrestricted licensure in this Commonwealth must be one of the following:

(1) An AOA approved internship.

(2) An ACGME-accredited training program that has received ACGME Osteopathic Recognition.

(3) An ACGME-accredited training program that includes 24 weeks of rotations in internal medicine, general surgery, pediatrics, family medicine, emergency medicine and obstetrics/gynecology.

(b) [Internship programs which have not been approved by the AOA Board of Trustees may be approved by the] The Board, [at] in its discretion, [in the event] and upon a showing of exigent circumstances, [wherein a sufficient number of AOA-approved internship positions are not available] may approve other internship programs to accommodate osteopathic medical school graduates desiring to obtain licensure in this Commonwealth.

**§ 25.263. [Other] Approved residencies and other approved graduate training programs.**

[The Board will work cooperatively with the AOA under standards established by the Committee on Post-Doctoral Training of the AOA to evaluate and approve other supervised graduate training programs leading to certification in a medical specialty by the appropriate specialty board of the AOA. AOA-approved programs are approved by the Board, but the Board may conduct or cause to be conducted inspections it deems necessary to ensure educational quality.] An approved residency program prerequisite to unrestricted licensure in this Commonwealth must be one of the following:

(1) An AOA-approved or accredited residency program.

(2) An ACGME-approved or accredited residency program.

(3) A training program provided by a hospital accredited by the Joint Commission on Accreditation of Hospitals which is acceptable to the AOA or ABMS toward the training it requires for certification in a specialty or subspecialty.

(4) A graduate training program otherwise approved by the Board.

**§ 25.264. Approval dates.**

(a) [On and after July 1, 1992, internships prerequisite to unrestricted licensure shall have been approved in accordance with § 25.262 (relating to approved internships).] [Reserved].

(b) A candidate for unrestricted licensure [applying on or after July 1, 1993,] shall have completed an [AOA-approved] approved internship in accordance with § 25.262 (relating to approved internships), [or] an approved residency in accordance with § 25.263 (relating to approved residencies and other approved graduate training programs), or an internship or residency which had been approved by the Board at the time the candidate participated in the program.

\* \* \* \* \*

**Subchapter I. REGISTRATION AND PRACTICE OF ACUPUNCTURISTS**

\* \* \* \* \*

**§ 25.303. Requirements for registration as an acupuncturist and an acupuncturist supervisor.**

(a) The Board will register as an acupuncturist a nonosteopathic physician who satisfies the following requirements:

(1) Has successfully completed an acupuncture program which includes a course in needle sterilization techniques.

(i) If the acupuncture education program is taken within the United States, the applicant shall complete 2 academic years of acupuncture training and shall complete 2 academic years of a college level educational program.

- (ii) If the educational program is taken outside of the United States, an applicant shall graduate from a college with a program of study including Oriental medicine and document 300 class hours of study in acupuncture training.
- (2) Has obtained a passing grade on an acupuncture examination or has been certified by NCCA by credential review. The Board accepts the passing grade on the certifying examination of the NCCA as determined by the NCCA, and accepts a passing grade on any state’s acupuncture examination taken prior to January 1, 1987, as determined by the licensing or registering authority in the other state. If the examination was not taken in English, but is otherwise acceptable and a passing score was secured, the Board will accept the examination result if the applicant [has also secured a passing score on the test of English as a Foreign Language (TOEFL).] can demonstrate English language proficiency by one of the following:
- (i) The applicant’s educational program was in English.
  - (ii) The applicant’s training was at an English-speaking facility.
  - (iii) The applicant’s entry examination was taken in English.
  - (iv) The applicant has achieved a scaled score of 83 on the Test of English as a Foreign Language (TOEFL) internet-based test, 220 on the TOEFL computer-based test or 550 on the TOEFL paper-based test 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 website.
  - (v) The applicant has achieved a score of 350 in each of the four sub-tests of the Occupational English Test.
  - (vi) The applicant has achieved a passing score on an English language

proficiency examination equivalent to the TOEFL or Occupational English Test, as determined by the Board. The Board will make available a list of equivalent Board-approved English language proficiency examinations on its website.

(vii) The applicant was required to demonstrate English language proficiency to be issued a license in another jurisdiction.

(2.1) Completes at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(3) Submits an application to register as an acupuncturist accompanied by the required fee.

(b) The Board will register as an acupuncturist an osteopathic physician who satisfies the following requirements:

(1) Has successfully completed 200 hours of training in acupuncture medical programs including examinations required by those programs or has engaged in clinical acupuncture practice for at least 3 years prior to January 1, 1987, documented to the satisfaction of the Board.

(2) Submits an application to register as an acupuncturist accompanied by the required fee.

\* \* \* \* \*



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF OSTEOPATHIC MEDICINE**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-4858

May 7, 2024

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Osteopathic Medicine  
16A-5336: Licensure Requirements

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Osteopathic Medicine pertaining to 16A-5336 Licensure Requirements.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in blue ink, appearing to read "John B. Bulger".

John B. Bulger, D.O., Chairperson  
State Board of Osteopathic Medicine

MJF/dmw  
Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs  
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs  
Andrew LaFratte, Executive Policy Specialist, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Marc J. Farrell, Regulatory Unit Counsel, Department of State  
Dana M. Wucinski, Counsel, State Board of Osteopathic Medicine  
State Board of Osteopathic Medicine

**Porta, Jason**

---

**From:** Orchard, Kari L. <KOrchard@pahouse.net>  
**Sent:** Tuesday, May 7, 2024 11:20 AM  
**To:** Porta, Jason; Barton, Jamie; Brett, Joseph D.  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626

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Review Commission  
May 7, 2024

Received. Thanks!

**Kari Orchard**

Executive Director (D) | House Professional Licensure Committee  
Chairman Frank Burns, 72<sup>nd</sup> Legislative District

---

**From:** Porta, Jason <jporta@pa.gov>  
**Sent:** Tuesday, May 7, 2024 8:43 AM  
**To:** Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>  
**Subject:** DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Importance:** High

**Please provide a written (email) confirmation of receipt of delivery of the attached rulemakings**

Please be advised that the State Board of Osteopathic Medicine and State Real Estate Commission are delivering the below proposed rulemakings.

Thank you for your attention to this matter.

**16A-5336 State Board of Osteopathic Medicine Licensure Requirements**

The proposed amendments for osteopathic physicians and surgeons are necessary to reflect the merger of the post-graduate training bodies for osteopathic (DO) medical school graduates and allopathic (MD) medical school graduates into a single accreditation system. In addition, the amendments remove the practical (clinical skills) examination licensure requirement because the practical exam component has been discontinued by the national examination provider. Lastly, the proposed rulemaking is further needed to effectuate Act 41 of 2019 (now codified at 63 Pa.C.S. § 3111), which requires the Board to issue a license to an applicant licensed in another jurisdiction who meets the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111.

➤ **16A-5626 Real Estate Commission Broker Price Opinions**

The proposed regulations outline the requirements and uses of broker price opinions, which are considered another form of valuation for a property. The proposed regulations are needed to clarify limitations and requirements for broker price opinions, including required disclosures, signature requirements, permissible uses and minimum required experience and education for licensees of the Commission who wish to perform or sign broker price opinions, including, brokers, associate brokers and salespersons.

**Jason P. Porta** | Legal Assistant II  
Counsel Division  
PA Department of State | Office of General Counsel  
P.O. Box 69523



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**From:** [Bulletin](#)  
**To:** [Porta, Jason](#)  
**Cc:** [Worthington, Amber](#); [Adeline E. Gaydosh](#)  
**Subject:** [External] Re: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Date:** Tuesday, May 7, 2024 2:10:34 PM

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Review Commission  
May 7, 2024

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**ATTENTION:** *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).*

Good afternoon, Jason,

Thank you for sending these proposed rulemakings. They are scheduled for publication in the 5/18 issue of the *Pennsylvania Bulletin*.

Have a wonderful rest of your day,  
Adeline

**Adeline Gaydosh | Legal Assistant**

[agaydosh@palrb.us](mailto:agaydosh@palrb.us) | 717.783.3984

Legislative Reference Bureau

*Pennsylvania Code & Bulletin Office*

647 Main Capitol Building

Harrisburg, PA 17120

---

**From:** Porta, Jason <jporta@pa.gov>  
**Sent:** Tuesday, May 7, 2024 1:29 PM  
**To:** Bulletin <bulletin@palrb.us>; Leah Brown <lbrown@palrb.us>; Adeline E. Gaydosh <agaydosh@palrb.us>  
**Cc:** Worthington, Amber <agontz@pa.gov>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626

Good afternoon, I am writing to follow up to make sure this e-mail was not missed, as confirmation must be completed as soon as possible. Thank you for your understanding.

Sincerely,  
Jason Porta, Legal Assistant II

---

**From:** Porta, Jason  
**Sent:** Tuesday, May 7, 2024 8:56 AM  
**To:** Bulletin <bulletin@palrb.us>; lbrown@palrb.us; Adeline E. Gaydosh <agaydosh@palrb.us>  
**Subject:** DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Importance:** High

**Please provide a written (email) confirmation of receipt of delivery of the attached**

## rulemakings

Please be advised that the State Board of Osteopathic Medicine and State Real Estate Commission are delivering the below proposed rulemakings.

Thank you for your attention to this matter.

### **16A-5336 State Board of Osteopathic Medicine Licensure Requirements**

The proposed amendments for osteopathic physicians and surgeons are necessary to reflect the merger of the post-graduate training bodies for osteopathic (DO) medical school graduates and allopathic (MD) medical school graduates into a single accreditation system. In addition, the amendments remove the practical (clinical skills) examination licensure requirement because the practical exam component has been discontinued by the national examination provider. Lastly, the proposed rulemaking is further needed to effectuate Act 41 of 2019 (now codified at 63 Pa.C.S. § 3111), which requires the Board to issue a license to an applicant licensed in another jurisdiction who meets the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111.

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**Jason P. Porta** | Legal Assistant II  
Counsel Division  
PA Department of State | Office of General Counsel  
P.O. Box 69523  
Harrisburg, PA 17105  
Phone: 717.783.7200 | Fax: 717.787.0251  
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Porta, Jason

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**From:** Nicole Sidle <Nsidle@pahousegop.com>  
**Sent:** Tuesday, May 7, 2024 9:54 AM  
**To:** Porta, Jason; Francesca Summa  
**Subject:** RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626

This has been received.

**From:** Porta, Jason <jporta@pa.gov>  
**Sent:** Tuesday, May 7, 2024 8:45 AM  
**To:** Nicole Sidle <Nsidle@pahousegop.com>; Francesca Summa <Fsumma@pahousegop.com>  
**Subject:** [EXTERNAL]: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Importance:** High

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**Porta, Jason**

---

**From:** Smeltz, Jennifer <jmsmeltz@pasen.gov>  
**Sent:** Tuesday, May 7, 2024 8:39 AM  
**To:** Porta, Jason  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626

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Received.

*Jen Smeltz  
Executive Director  
Consumer Protection and Professional Licensure Committee  
Office of Senator Pat Stefano  
Phone: (717) 787-7175*

---

**From:** Porta, Jason <jporta@pa.gov>  
**Sent:** Tuesday, May 7, 2024 8:37 AM  
**To:** Smeltz, Jennifer <jmsmeltz@pasen.gov>  
**Subject:** DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Importance:** High

⦿ CAUTION : External Email ⦿

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**From:** [Monoski, Jesse](#)  
**To:** [Porta, Jason](#)  
**Cc:** [joseph.kelly](#); [Vazquez, Enid](#); [Dimm, Ian](#)  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626  
**Date:** Tuesday, May 7, 2024 9:15:29 AM

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May 7, 2024

---

Received.

Thank you, Jason.

You may add me back to your distribution list for confirmations moving forward, if you'd like.

Best,

**Jesse Monoski**

**Executive Director, Consumer Protection & Professional Licensure**

**Senator Lisa M. Boscola, Minority Chair**

**Rm 458 Main Capitol Building**

**Harrisburg, PA, 17120**

**O: 717-787-4236**

---

**From:** Porta, Jason <[jporta@pa.gov](mailto:jporta@pa.gov)>  
**Sent:** Tuesday, May 7, 2024 8:39 AM  
**To:** Dimm, Ian <[Ian.Dimm@pasenate.com](mailto:Ian.Dimm@pasenate.com)>; Kelly, Joseph <[joseph.kelly@pasenate.com](mailto:joseph.kelly@pasenate.com)>; Vazquez, Enid <[Enid.Vazquez@pasenate.com](mailto:Enid.Vazquez@pasenate.com)>  
**Subject:** DELIVERY NOTICE: REGULATIONS 16A-5336 & 16A-5626

■ EXTERNAL EMAIL ■

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May 7, 2024

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