

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/08/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/27/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

10 32 01 02-.16

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator Telephone Number
Michele Phinney 410-767-5623

Mailing Address

201 W. Preston Street

City State Zip Code
Baltimore MD 21201

Email
michele.phinney@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Wynee Hawk 410-764-3786

Email Address
wynee.hawk@maryland.gov

6. Check applicable items:
 X- New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 12, 2013.

X- Repeal of Existing Regulations

X- Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes **X-** No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Noreen Rubin, Assistant Attorney General, (telephone #410-767-6917) on April 23, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Date

May 8, 2014

Telephone No.

410-767-6500

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 32 BOARD OF PHYSICIANS

10.32.01 General Licensure Regulations

Authority: Health Occupations Article, §§14-101, 14-205—14-207, 14-301, 14-302, 14-304-14-307, 14-310, 14-311, 14-314, 14-316, 14-318, 14-320, 14-401, 14,503, 14-505, and 14-606, Annotated Code of Maryland

Notice of Proposed Action

□

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.08, adopt new Regulation .09, recodify and amend Regulations .09, .10, .12, .and .13 to be Regulations .10, .11, .13,and .14 respectively, recodify Regulations .11, .14 and .15 to be Regulations 12, .15 and .16, and repeal existing Regulation .16 under COMAR 10.32.01 General Licensure Requirements.

Statement of Purpose

The purpose of this action is to The purpose of this action is to revise the licensure regulations to comply with statutory requirements as amended by Chapters 307, 401, and 583 Acts of 2013 (SB 690, HB 1096, and HB 1313).

Specifically this proposal:

- 1) Amends how physicians are licensed;
- 2) Amends the license renewal process;
- 3) Establishes penalties for the failure to renew a license;
- 4) Provides Continuing Medical Education credit for doing volunteer work;
- 5) Changes a definition;
- 6) Changes advertising requirements;
- 7) Eliminates the 10 year rule for meeting various examination requirements;
- 8) Makes changes to the reinstatement process; and
- 9) Eliminates an obsolete section regarding qualification for medical licenses.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 TTY:800-735-2258 , or email to dhmfh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through July 28, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2014

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The proposed regulations do not change fees and are updated to reflect current practice and changes as reflected in legislation.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The proposed regulations do not change fees and are updated to reflect current practice and changes as reflected in legislation.

G. Small Business Worksheet:

Attached Document:

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 32 BOARD OF PHYSICIANS

10.32.01 General Licensure Regulations

10.32.01.02 (August 12, 2013)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "ABMS" means the American Board of Medical Specialties.

[(1)] (2)—[(3)] (4) (text unchanged)

(5) "AOA" means the American Osteopathic Association.

[(4)] (6)—[(6)] (8) (text unchanged)

[(7)] "Certification" means successfully meeting all the specified requirements of the certifying body of a medical licensing authority or specialty board recognized by the Board.]

(9) "Board-certified" means that a physician is currently certified by a member board of the American Board of Medical Specialties or an approved specialty board of the American Osteopathic Association.

[(8)] (10)—[(15)] (17) (text unchanged)

[(16)] "Faculty" means the Medical and Chirurgical Faculty of the State of Maryland or its successor.]

[(16-1)] (18) (text unchanged)

[(16-2)] (19) "Orientation program" means a program of information approved by the [BPQA] Board which includes:

(a)—(c) (text unchanged)

[(17)] (20)—[(18)] (21) (text unchanged)

[(19)] (22)—[(20-1)] (24) (text unchanged)

[(21)] "Test of Spoken English (TSE)" means the Educational Testing Service examination designed to evaluate the spoken English proficiency of those whose native language is not English.]

(25) "TOEFL" means the Test of English as a Foreign Language.

[(22)] (26) (text unchanged)

.03 Licensure — Qualifications for Initial Licensure.

A.—F. (text unchanged)

G. Examination.

(1) An applicant for licensure in Maryland shall successfully complete at least one of the following examination requirements:

(a) (text unchanged)

(b) Achieve a score as follows:

(i) At least 75 on each part of the FLEX examination [with all passing scores being achieved within 5 years of each other];

(ii)—(iii) (text unchanged)

(c) (text unchanged)

(d) Achieve the recommended passing score on all levels of the Comprehensive Osteopathic Medical Licensing Exam of the National Board of Osteopathic Medical Examiners [with all passing scores being achieved within a 10-year period beginning with the month and year when the examinee passes any level and with not more than three fails on any level];

(e) Achieve passing scores on any of the following examination combinations [with all the passing scores being achieved within a 10-year period, beginning with the month and year when the examinee passes a part or a level of the applicable examination combinations and with not more than three fails on any part or level]:

(i)—(f) (text unchanged)

(g) Achieve a passing score on all steps of the United States Medical Licensing Examination (USMLE) [with all the passing scores being achieved within a 10-year period beginning with the month and year when the examinee passes either Step 1 or Step 2 and with no more than three fails on any step]; [or]

(h) If completed before the year 2000, achieve passing scores on any of the following examination combinations [with all the passing scores being achieved within a 10-year period beginning with the month and year when the examinee passes a part or a component or a step of the applicable examination combinations and with no more than three fails on any part, step, or component]:

(i)—(x) (text unchanged)

(xi) FLEX Component 2 + NBME Part I + NBME Part III[.] ; or

(i) Achieve a passing score on each part of the applicable qualifying examination of the Licentiate of the Medical Council of Canada.

[(2)] An applicant may repeat a step, level, or part of an examination previously passed in order to meet the 10-year requirement in §G(1)(d), (e), (g), or (h) of this regulation.

(3) An applicant who fails any of the examinations or combination of examinations listed in §G(1) of this regulation or any part, step, or component of any of the examinations listed in §G(1) three times shall submit evidence of having successfully completed 1 year of accredited clinical postgraduate medical education that:

- (a) Is in addition to any postgraduate medical education required in §D of this regulation;
- (b) Is a complete year comprising 12 consecutive months that began after the date of the last fail;
- (c) Is under one sponsoring institution;
- (d) Is at postgraduate year 1 or above in one accredited clinical specialty or subspecialty; and
- (e) Does not include training:
 - (i) Begun before the last fail; or
 - (ii) Extended from training begun before the last fail.

(4) Repealed.

(5) Repealed.

(6) Notwithstanding §G(1) of this regulation, the Board shall require physicians to pass the SPEX examination or the Comprehensive Osteopathic Medical Variable-Purpose Examination—USA (COMVEX—USA) if:

(a) The applicant's licensure examination was successfully completed more than 15 years before making application for licensure in this State;

(b) The applicant has not maintained uninterrupted active licensure in the United States during the 10 years before making application for licensure in this State; and

(c) The applicant has not been certified or recertified by a Board-recognized specialty board within the 10 years before making application for licensure in this State.

(7) On a case-by-case basis, the Board may consider licensure of an applicant who has passed one of the examinations or examination combinations specified in §G(1)(d), (e), or (g) of this regulation with more than three fails on one or more parts, levels, steps, or components, if the applicant can demonstrate, to the satisfaction of the Board or a designated committee of the Board:

(a) That the failures resulted from a physical, emotional, or mental condition or learning disability:

(i) That was diagnosed by a physician or other qualified and appropriate professional licensed within the United States or Canada before the applicant passed the part, level, step, or component that the applicant had failed more than three times;

(ii) That is verified to the satisfaction of the Board, at the applicant's expense, through examination by a licensed physician or other qualified and appropriate licensed professional selected by the Board; and

(iii) For which the applicant received test accommodations in accordance with the Americans with Disabilities Act for not more than four test administrations;

(b) That the individual has practiced clinical medicine in another state of the United States or in Canada; and:

(i) There is a minimum 10 years clinical practice in another state of the United States or in Canada with 3 years being within 5 years of the application;

(ii) The clinical practice occurred under a full, unrestricted license to practice medicine; and

(iii) The individual has never had a medical license restricted due to a disciplinary action in any state or in Canada; or

(c) That the individual is currently certified by:

(i) A member board of the American Board of Medical Specialties;

(ii) An approved specialty board of the American Osteopathic Association;

(iii) The Royal College of Physicians and Surgeons of Canada; or

(iv) The College of Family Physicians of Canada.

(8) The Board shall license an applicant who has passed examination or examination combinations specified in §G(1)(d), (e), or (g), of this regulation in more than 10 years, if the applicant can demonstrate to the satisfaction of the Board, that the applicant passed all steps of the examination or examination combination with not more than two fails on each step and meets one of the following criteria:

(a) Is currently certified by:

(i) A member board of the American Board of Medical Specialties;

(ii) An approved specialty board of the American Osteopathic Association;

(iii) The Royal College of Physicians and Surgeons of Canada; or

(iv) The College of Family Physicians of Canada;

(b) Has 3 years of uninterrupted clinical practice in another state of the United States or in Canada under a full, unrestricted license to practice medicine; or

(c) Has successfully completed and been awarded degrees from a combined MD/PhD program or an equivalent program which delayed completion of the examination.]

(2) An applicant who fails any part, step, level, or component of the examinations or combination of examinations listed in §G(1) of this regulation three or more times shall meet one of the requirements listed in §G(3) of this regulation.

(3) An otherwise qualified applicant who has passed the examination after failing any of the examinations or combination of examinations listed in §G(1) of this regulation or any part, step, level, or component of any of the examinations listed in §G(1) three or more times may qualify for a license only if the applicant:

(a) *Has successfully completed 2 or more years of a residency or fellowship accredited by the ACGME or the AOA and has a minimum of 5 years of clinical practice of medicine:*

(i) *With at least 3 of the 5 years having occurred within 5 years of the date of the application;*

(ii) *In the United States or in Canada;*

(iii) *That occurred under a full unrestricted license to practice medicine; and*

(iv) *Has had no disciplinary action pending and has had no disciplinary action taken against the applicant that would be grounds for discipline under Health Occupations Article, §14-404, Annotated Code of Maryland; or*

(b) *Is Board-certified.*

(4) *Notwithstanding §G(1) of this regulation, the Board shall require an applicant to pass the SPEX examination or the Comprehensive Osteopathic Medical Variable-Purpose Examination—USA (COMVEX—USA) if the applicant:*

(a) *Last passed a medical licensing examination more than 15 years before this application;*

(b) *Has never had specialty board certification or last passed a specialty board certification examination given by a member board of the American Board of Medical Specialties or the American Osteopathic Board Bureau of Osteopathic Specialists more than 10 years before this application;*

(c) *Has not had a full, unrestricted medical license in at least one state of the United States or Canada within the 10-year period before this application; and*

(d) *Has not actively practiced clinical medicine in the United States or Canada for at least 7 of the 10 years before this application.*

(5) *Notwithstanding §G(1) of this regulation, the Board may require an applicant to pass the SPEX examination or the Comprehensive Osteopathic Medical Variable-Purpose Examination – USA (COMVEX - USA) if the applicant meets one or more of the conditions listed in §G(4)(a) – (d) of this regulation.*

H. Additional Requirements.

(1)—(2) (text unchanged)

[(3)] The Board may require an applicant for licensure to submit to a physical or mental examination, or both, by a physician or evaluation program for treatment of impaired physicians, or both, chosen by the Board to determine the applicant's ability to practice medicine. The applicant shall pay the costs of these evaluations.]

[(4)] (3)—[(5)] (4) (text unchanged)

[(6) An] (5) *During the application process, an applicant for licensure shall have the duty to inform the Board by [certified] electronic or first class mail, [return receipt requested, within 30 days of the occurrence or notification] of any of the circumstances listed in §H(1) and (2) of this regulation within 30 days of the occurrence of or notification about these circumstances.*

[(7)] (6) (text unchanged)

I.—J. (text unchanged)

.04 Licensure — Documentation for Initial Licensure.

A. (text unchanged)

B. Complete Application.

(1) A complete application for initial licensure shall include, but is not limited to, proof of the following through documentation on forms supplied by the Board:

(a)—(b) text unchanged

(c) Documentation of successful completion of the examination requirements as described in Regulation [.03F] .03G of this chapter including submission of all applicant's scores sent directly to the Board from the examination authority or authorities.

(2)—(4) (text unchanged)

(5) A complete application shall include:

(a) All application and licensing fees as required in Regulation [.11] .12 of this chapter, payable to the Board at the time the application is submitted to the Board; and

(b) (text unchanged)

C. (text unchanged)

[D. English Language Competency. The applicant shall demonstrate oral and written English language competency as follows:

(1) Graduation from a high school or undergraduate college or university where English was the language of instruction throughout the applicant's inclusive dates of attendance, after at least 3 years of enrollment;

(2) Graduation from a professional school where English was the language of instruction throughout the applicant's inclusive dates of attendance; or

(3) Successful completion of the following examination requirements:

(a) Achieve a score of at least 550 on the Test of English as a Foreign Language (TOEFL) or a passing score on the ECFMG (Educational Commission for Foreign Medical Graduates) English test taken beginning January, 1974, or an equivalent score on an equivalent examination as determined by the Board; and

(b) Achieve a passing score as determined by the Board on one of the following examinations:

(i) The Test of Spoken English (TSE) with a score of either at least 220 on tests taken before July, 1995, or at least 50 on tests taken beginning July, 1995, as determined by the Board;

(ii) The Oral Proficiency Interview (OPI) with a score of at least 2 or advanced for examinations taken after October 1, 1994, as determined by the Board; or

(iii) An equivalent examination with an equivalent passing score, as determined by the Board.]

D. *English Language Competency. The applicant shall demonstrate oral and written competency in English by any of the following:*

(a) *Documentation of graduation from a recognized English-speaking high school or undergraduate school after at least 3 years of enrollment;*

(b) *Documentation of graduation from a recognized English-speaking professional school;*

(c) *Documentation of a passing score on the USMLE step 2 Clinical Skills; or*

(d) *Documentation of receiving:*

(i) *A score of at least 26 on the "Speaking Section" of the Internet-Based TOEFL or*

(ii) *A score of Advanced or higher on the OPI.*

E. Claims of Speech Impairment.

(1) Applicants wishing to claim a speech impairment after failing either the [Test of Spoken English] *TOEFL* or the [Oral Proficiency Interview] *OPI* shall submit documentation of this impairment on forms supplied by the Board.

(2) (text unchanged)

(3) Documentation should be submitted with the applicant's initial application but, in all cases, shall be submitted before the applicant's second attempt at passing the [Test of Spoken English] *TOEFL* or [its equivalent] *the OPI*.

(4)—(6) (text unchanged)

F.—J. (text unchanged)

.05 [Expired or] Inactive Licensure.

A. A licensee *in good standing* who wishes to maintain the licensee's medical license but who does not wish to practice medicine in this State may apply for inactive status.

B. (text unchanged)

C. A licensee may apply for inactive status if the licensee has an unrestricted active license to practice medicine in this State and may also apply [during the late renewal period immediately following] *within 60 days of the expiration of the licensee's medical license.*

D. A licensee with an inactive [or expired] license may not:

(1)—(3) (text unchanged)

E. *A licensee on inactive status shall have the duty to inform the Board by electronic or first class mail of any of the circumstances listed in Regulation .03H(1) and (2) of this chapter within 30 days of the occurrence of or notification about these circumstances.*

[E.] F. (text unchanged)

[F.] G. A physician whose license is [expired or] on inactive status and who wishes to practice medicine in Maryland shall apply for reinstatement on a form supplied by the Board *and meet the requirements for reinstatement in Regulation .11 of this chapter, including the continuing medical education requirements.* The physician is not licensed to practice medicine until the license is reinstated.

.06 Qualifications for Limited License for Postgraduate Teaching.

A.—D. (text unchanged)

E. Additional Requirements for Postgraduate Teaching Licenses.

(1)—(2) (text unchanged)

(3) [An] *During the application process, an applicant for a limited license for postgraduate teaching shall have the duty to inform the Board by [certified] electronic or first class mail, [return receipt requested, within 30 days of the occurrence or notification] of any of the circumstances listed in Regulation [.03G(1)] .03H(1) and (2) of this chapter within 30 days of the occurrence of or notification about these circumstances.*

(4)—(5) (text unchanged)

F.—H. (text unchanged)

.07 Setting of Fees.

All fees, not set by statute, will be set by the Board. A copy of the current fee schedule is set forth in Regulation [.11] .12 of this chapter. *Fees paid to the Board are nonrefundable.*

.08 Renewals.

A. (text unchanged)

B. At least 1 month before the license expires, the Board shall send to the last known address *of record* of the licensee, *a renewal notice by electronic or first-class mail.*

(1) A renewal notice that states:

(a)—(b) (text unchanged)

(c) *If the Board chooses to send renewal notices exclusively by electronic mail, the Board shall send a renewal notice by first-class mail to a licensee on request of the licensee.*

(2) A blank panel data sheet supplied by the Health [Claims Arbitration Office] *Care Alternative Dispute Resolution Office*.

C. (text unchanged)

[D. Except for treatment under a voluntary agreement with the Physician Rehabilitation Program of the Medical and Chirurgical Faculty of Maryland, a licensee applying for renewal shall provide the Board with information including, but not limited to, the actions listed in Regulation .03G(1) of this chapter which have occurred since the last renewal application or, in the case of a physician's first renewal, since the date when medical licensure application was submitted to the Board.]

[E. An applicant for renewal shall] *D. During the application process, a licensee applying for renewal shall have the duty to inform the Board by [certified] electronic or first class mail, [return receipt requested, within 30 days of the occurrence or notification] of any of the circumstances listed in Regulation [.03G(1)] .03H(1) and (2) of this chapter within 30 days of the occurrence of or notification about these circumstances.*

E. During the entire 2-year renewal cycle, a licensee shall have the duty to inform the Board by electronic or first class mail, of any of the circumstances listed in Regulation .03H (1) and (2) of this chapter within 30 days of the occurrence of or notification about these circumstances.

F. A licensee applying for renewal shall complete the continuing medical education requirements for each renewal period as defined in Regulation [.09] .10 of this chapter.

G. (text unchanged)

H. Before the expiration date of the license, a licensee shall complete and return to the Board the renewal form and renewal fee according to instructions. After the expiration date, the physician is no longer licensed to practice medicine and shall submit an application for reinstatement and documentation of continuing medical education credits.

[I. The period for late renewal is the 2-month period immediately following the expiration date of the last renewal cycle. If a physician applies for renewal during this period, the penalty fee for late renewal applies. The physician is not authorized to practice medicine until the application for late renewal is approved by the Board.]

I. The Board may impose a fine of up to \$50,000 for practicing without a license if a formerly-licensed physician:

(1) Fails to submit an application and to pay the requisite renewal fee within 60 days of the expiration of the license; or

(2) Practices medicine 60 days after the expiration of the license or thereafter.

J.—K. (text unchanged)

.09 Expired Licensure.

A. A licensee with an expired license may not:

(1) Practice medicine within Maryland;

(2) Prescribe medicine within Maryland; or

(3) Conduct peer review of physicians within Maryland.

B. A physician whose license is expired and who wishes to practice medicine in Maryland shall apply for reinstatement on a form supplied by the Board and meet the requirements for reinstatement in Regulation .11 of this chapter, including the continuing medical education requirements. The physician is not licensed to practice medicine until the license is reinstated.

[.09] .10 Continuing Medical Education.

A. (text unchanged)

B. Requirements.

(1) (text unchanged)

(2) The Board shall recognize for Category I CME credit those activities which meet at least one of the following additional requirements for the activity:

(a)—(f) (text unchanged)

(g) Is a service performed by a Board designee and involves medical record review for the Board and the service is performed without compensation, and is credited up to a maximum of 10 credit hours for a 2-year period[.];

(h) Is a service performed voluntarily and without compensation and is credited up to a maximum of 5 CME credits in a renewal period as follows:

(i) The applicant shall provide the voluntary, uncompensated services in the practice of medicine; and

(ii) The applicant shall demonstrate, by submitting documentation consistent with §D of this regulation, the total number of voluntary, uncompensated hours provided, and the dates, times, and locations of the medical services provided.

(3) (text unchanged)

(4) For the purposes of §B(2)(g) and (h), 5 hours of voluntary, uncompensated services are equal to 1 hour of CME Category 1 credit.

C. (text unchanged)

D. Documentation of CME Credits.

(1)—(4) (text unchanged)

(5) The required documentation [of service to a committee is one of the following:

(a) For service as a peer review committee:

(i) Documentation from the Faculty acknowledging the designation of the applicant as a specialist reviewer on a peer review report submitted to the Board, and stating the number of hours the applicant expended on the completion of the report; or

(ii) Documentation from the Faculty acknowledging the applicant as chair of a focused professional education committee for a specific period;

(b) For service to the Physician Rehabilitation Committee:

(i) Documentation from the Faculty acknowledging the designation of the applicant as an intervenor or assessor, or as a monitor of ongoing treatment or recovery of a physician participant under the auspices of the Physician Rehabilitation Committee and submitting reports to the committee; or

(ii) Documentation from the Faculty acknowledging the applicant as chair of the Physician Rehabilitation Committee, for a specific period;

(d) For] for service as a preceptor *is one of the following*:

(i)—(ii) (text unchanged)

(6) (text unchanged)

E. (text unchanged)

[.10] .11 Reinstatement of Expired or Inactive Licenses.

A. A physician whose license has been placed on inactive status or who has failed to renew a license by the [2-month late renewal period] *license expiration date* and who wishes to practice medicine in Maryland [may] *shall* apply for reinstatement on a form supplied by the Board.

B. (text unchanged)

C. A physician applying for reinstatement shall [complete the] *submit documentation of completing the required number of CME hours for reinstatement as defined in Regulation [.09] .10* of this chapter.

D.—E. (text unchanged)

[F. An applicant for reinstatement shall inform the Board by certified mail, return receipt requested, within 30 days of the occurrence or notification of any of the circumstances listed in Regulation .03G(1).]

[G.] *F.* (text unchanged)

[H.] *G.* A physician applying for reinstatement may be required to pass the SPEX *or COMVEX-USA* examination if the [physician's] *physician*:

(1) [Licensure examination was completed over 15 years before this application for reinstatement] *Last passed a medical licensing examination more than 15 years before this application*;

(2) [Certification and recertification examinations were completed over 15 years before application for reinstatement; or] *Has never had specialty board certification or last passed a specialty board certification examination given by a member board of the American Board of Medical Specialties or the American Osteopathic Board Bureau of Osteopathic Specialists more than 10 years before this application*;

(3) [Active licensure has been interrupted in at least one state of the United States including the District of Columbia, Puerto Rico, or one U.S. territory.] *Has not had a full, unrestricted medical license in at least one state of the United States or Canada within the 10-year period before this application*; or

(4) *Has not actively practiced clinical medicine in the United States or Canada for at least 7 of the 10 years before this application.*

I.—J. (text unchanged)

[.11] .12 (text unchanged)

[.12] .13 Advertising.

A. (text unchanged)

B. An advertisement may not contain:

(1)—(9) (text unchanged)

[(10) Statements that state or imply that the physician has received formal recognition as a specialist in any aspect of the practice of medicine unless:

(a) The physician has received this recognition by the following or their successors:

(i) The Board of Physician Quality Assurance before October 1, 1996;

(ii) The American Board of Medical Specialties; or

(iii) The American Osteopathic Association; or

(b) The physician is certified by a board that requires as a prerequisite of certification that the physician:

(i) Maintains certification from an appropriate member board of the American Board of Medical Specialties or The American Osteopathic Association;

(ii) Completes an accredited training program that includes identifiable training in the field of medicine that the physician is advertising as the physician's specialty; and

(iii) Successfully completes a rigorous examination in the field of medicine the physician is advertising.]

C. *A physician who does not have a certification as defined in Regulation .02B(7) of this chapter may not use the term "board certified" to describe his or her qualifications or make any representation that he or she has received formal recognition as a specialist in any aspect of the practice of medicine.*

D. A physician who is board certified may not use the term “board certified” to indicate certification or expertise in a specialty or subspecialty area other than that in which the physician is certified by the certifying board.

[C.] E.—[G.] I. (text unchanged)

[.13] .14 Solicitation.

A. A physician may not engage in solicitation, including in-person, telephone, or direct mail solicitation which:

(1) (text unchanged)

(2) Contains statements which would be improper under Regulation [.12B] .13B of this chapter.

B. (text unchanged)

[.14] .15—[.15].16 (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene