MEDICAL BOARD OF BOARD

INITIAL STATEMENT OF REASONS

Hearing Date:  July 31, 2015

Subject Matter of Proposed Regulations:  Physician’s and Surgeon’s Licensing Examinations Minimum Passing Scores

Section(s) Affected:  Division 13, Title 16, Chapter 1, Article 8, California Code of Regulations (CCR) section 1328.1

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

   The purpose of this proposed rulemaking is to further define Business and Professions Code (BPC) section 2177 by regulation and to eliminate the need for the Board to pass a resolution yearly regarding what the Board will accept as the minimum passing examination score.

2. Anticipated benefits from this regulatory action:

   This will provide clarity regarding the minimum passing score for each required licensing examination(s) steps.

3. Specific Purpose of Each Amendment:

   The Board’s last resolution specified the minimum passing score would be determined by the licensing examination organizations approved by the Board. The proposed regulation, if approved, would eliminate the need for a new resolution every year and provide the applicants clarification regarding the minimum passing score for each step of the approved licensing examinations.

Factual Basis/Rationale

The Board has enacted a resolution on a yearly basis to address the minimum passing examination score. The proposed new regulation will clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score, by specifying the Board will accept the minimum passing score as determined by the examination agency approved by the Board.

Underlying Data

Staff prepared a report for the May 8, 2015, Medical Board of California meeting (agenda item 27) regarding the need to add CCR section 1328.1. A copy of the staff report is included in this rulemaking file.
At that same meeting, the Board adopted a motion, directing staff to begin the regulatory process to add CCR section 1328.1 to further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

**Business Impact**

The addition of CCR section 1328.1 will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony: the proposed addition of CCR section 1328.2 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score, by accepting the minimum passing score that the approved licensing examination organizations have already determined as the minimum passing score.

**Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- It will not create new business or eliminate existing businesses within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- It will not affect the expansion of businesses currently doing business within the State of California because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

This regulatory proposal does benefit the health and welfare of California residents because the addition of CCR section 1328.1 further clarifies BPC section 2177 and eliminates the need for the Board to pass a yearly resolution regarding the minimum passing score. This regulatory action furthers the goal of the board which is to protect health care consumers through the proper licensing and regulation of health care professionals as well enforcing the Medical Practice Act.

- This regulatory proposal does not affect worker safety because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

- This regulatory proposal does not affect the state’s environment because the addition of CCR section 1328.1 will only further clarify BPC section 2177 and
eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score.

**Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

**Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Do not seek a change. This alternative was rejected because BPC section 2177 would not be further defined in regulation and the Board would continue to need to make a yearly resolution concerning minimum passing scores for licensing examinations.

2. Adopt the proposed new regulation. This alternative was determined to be the most appropriate because this would clarify what is accepted by the Board as a minimum licensing examination passing score and would eliminate the need for the Board to pass a yearly resolution regarding the minimum passing score for licensing examinations.
DATE REPORT ISSUED: April 15, 2015
ATTENTION: Members, Medical Board of California
SUBJECT: Physician’s and Surgeon’s Licensing Examinations
Minimum Passing Scores
STAFF CONTACT: Curtis J. Worden, Chief of Licensing

REQUESTED ACTION:
After review and consideration of the attached proposed physician and surgeon licensing score regulatory language, make a motion to direct staff to notice the proposed regulatory language and hold a hearing to add Title 16, Division 13, Article 8, California Code of Regulations (CCR), section 1328.1. The new regulation would define California Business and Professions Code (BPC) section 2177(a) regarding the minimum passing examinations scores.

BACKGROUND AND ANALYSIS:
BPC section 2177(a) states the Board will specify the passing score for each step of a required physician and surgeon licensing examination as established by resolution of the Board. The Board has enacted a resolution on this issue on a yearly basis.

The purpose of this proposed regulation is to further define BPC section 2177(a) by regulation. This would provide clarity regarding the minimum passing score for each required licensing examination(s) steps. The Board’s last resolution specified the minimum passing score would be determined by the licensing examination organizations. The proposed regulation, if approved, would eliminate the need for a new resolution every year and provide the applicants clarification regarding the minimum passing score for each step of the approved licensing examinations.

The current licensing examinations are developed and/or administered by the following organizations:

- National Board of Medical Examiners (NBME)
- United States Medical License Examination (USMLE)
- Educational Commission for Foreign Medical Graduates (ECFMG)
- Federation of State of Medical Boards (FSMB).
- Licentiate of the Medical Council of Canada (LMCC)

All of the above organizations conduct extensive research to prepare each step of the examinations for relevant content; ensure each examination step is psychometrically valid; and ensure that the examinations are conducted in secure testing environments.
STAFF RECOMMENDATION:
Staff recommends the Board authorize staff to proceed with preparing the necessary regulatory documents for proposed CCR section 1328.1 and hold a regulatory hearing. The suggested language is identified with underline text. BPC section 2177 is attached (Attachment A) for reference.

PROPOSED REGULATION LANGUAGE:

California Code of Regulations
Title 16, Division 13, Chapter 1, Article 8

Section 1328.1 Licensing Examination Minimum Passing Score

The board accepts the minimum passing score for each step of the required national physician and surgeon licensing examinations, as determined by the National Board of Medical Examiners (NBME), the United States Medical License Examination (USMLE), the Educational Commission for Foreign Medical Graduates (ECFMG), the Federation of State of Medical Boards (FSMB), and the Licentiate of the Medical Council of Canada (LMCC).

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129]
(Division 2 enacted by Stats. 1937, Ch. 399.)

CHAPTER 5. Medicine [2000 - 2521]
(Chapter 5 repealed and added by Stats. 1980, Ch. 1313, Sec. 2.)

ARTICLE 9. Examinations [2170 - 2186]
(Article 9 added by Stats. 1980, Ch. 1313, Sec. 2.)

2177.
(a) A passing score is required for an entire examination or for each part of an examination, as established by resolution of the board.

(b) Applicants may elect to take the written examinations conducted or accepted by the board in separate parts.

(c) (1) An applicant shall have obtained a passing score on all parts of Step 3 of the United States Medical Licensing Examination within not more than four attempts in order to be eligible for a physician’s and surgeon’s certificate.

(2) Notwithstanding paragraph (1), an applicant who obtains a passing score on all parts of Step 3 of the United States Medical Licensing Examination in more than four attempts and who meets the requirements of Section 2135.5 shall be eligible to be considered for issuance of a physician’s and surgeon’s certificate.

(Amended by Stats. 2013, Ch. 515, Sec. 11. Effective January 1, 2014.)