TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at San Francisco Airport Marriott Waterfront, 1800 Old Bayshore Hwy, Burlingame, CA 94010, at 9:00 a.m., on July 31, 2015.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on July 20, 2015, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific section 2177 of said Code, the Board is considering adding to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

This rulemaking proposes to add Title 16, Division 13, Chapter 1, Article 8, California Code of Regulations (CCR) section 1328.1 to further define Business and Professions Code (BPC) section 2177 regarding the minimum passing score of a licensing examination and to eliminate the need for the Board to pass a resolution every year regarding the minimum passing examination score.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The proposed CCR section 1328.1 defines the minimum passing examination score the Board will accept, to be the minimum passing score as determined by the licensing examination organizations that are approved by the Board. This will provide clarity regarding the minimum passing score for each required licensing examination(s) steps.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses, since the proposed CCR section 1328.1 only will further define BPC section 2177 and eliminate the need for the Board to make a yearly resolution regarding what the Board will accept as passing scores.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The benefit of adding CCR section 1328.1 is to further define BPC section 2177 regarding the minimum passing score of a licensing examination and to eliminate the need for the Board to pass a resolution every year regarding the minimum passing examination score. This will leave the determination of the minimum passing score to the approved licensing examination organizations that already ensure the examinations content is relevant, is psychometerically valid, and is conducted in secure testing environments. 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.

CONSIDERATION OF ALTERNATIVES

The Board determined that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Curtis Worden
Address:	Medical Board of California 2005 Evergreen St., Ste. 1200 Sacramento, CA 95815
Telephone No.:	(916) 274-2986
Fax No.:	(916) 263-2387
E-Mail Address:	regulations@mbc.ca.gov

The backup contact person is:

Name:	Kevin A Schunke, Regulations Manager
Address:	Medical Board of California 2005 Evergreen St, Ste. 1200 Sacramento, CA 95815
Telephone No.:	(916) 263-2368
Fax No.:	(916) 263-8936
E-Mail Address:	regulations@mbc.ca.gov

Website Access Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

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.

MEDICAL BOARD OF CALIFORNIA
LICENSING EXAMINATION MINIMUM PASSING SCORE
Specific Language of Proposed Changes

Legend

Underlined Indicates new proposed regulation

Add Section 1328.1 in Article 8, of Chapter 1, Division 13, of Title 16 of the California Code of Regulations to read as follows:

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).

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2176 and 2177, Business and Professions Code.