

**MEDICAL BOARD OF CALIFORNIA  
INITIAL STATEMENT OF REASONS**

**Hearing Date:** April 30, 2010

**Subject Matter of Proposed Regulations:** Written examinations

**Section(s) Affected:**

Amend Section 1328 in Article 8 of Chapter 1, Division 13, of Title 16.

**Specific purpose of each adoption, amendment, or repeal:**

Amend Section 1328 in Article 8 of Chapter 1, Division 13, relating to the Written Examinations recognized by the Board.

The Board is proposing to amend the above in order to:

- 1) recognize the examination combination of USMLE Steps 1 & 2 and NBME (National Board of Medical Examiners) Step 3 to meet the examination requirement for a physician and surgeon license, and;
- 2) make a technical change to reflect the statutorily changed structure of the Board and the elimination of the Division of Licensing, changing "Division" to "Board."(AB 253 (Eng, Chapter 678, Statutes of 2007) combined the two divisions of the Board into one board.)

CCR Title 16, section 1328, enumerates the combination of written examinations that are acceptable to the Board for the issuance of an initial physician & surgeon license. The regulations were last amended in 1999 to reflect the new USMLE steps 1, 2 and 3. At that time, the Board attempted to anticipate all of the possible legitimate combinations of examinations that future applicants would need to have recognized. Until very recently, the Board's regulation has been adequate.

**Factual Basis/Rationale:**

The Board has now received an application from an applicant under section 2170 of the Business & Professions Code that is unable to be licensed because examinations passed by the applicant are not included in the current regulation. Over 10 years ago, the applicant took the NBME 3 prior to taking Steps 1 & 2 of the USMLE, and two weeks prior to the Federation of State Medical Board's offering USMLE step 3.

While it would appear that this situation is rare, it is likely to occur again. The newly proposed combination of examinations are nationally recognized and are legitimate paths toward licensure. It is necessary to establish the acceptability of this combination of examinations in regulation.

**Underlying Data:**

The USMLE is the nationally recognized examination for physician licensure in all fifty states for first-time licensing. (Recent graduates, immigrant doctors.) Other legitimate examinations preceded the USMLE, most notably, the National Board Of Medical Examiners examination, the NBME.

**Business Impact**

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This regulation only impacts persons applying to the Medical Board for a physician and surgeon license.

The proposed regulation has no business or economic impact.

**Specific Technologies or Equipment:**

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

**Consideration of Alternatives:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

## TITLE 16. Medical Board of California

NOTICE IS HEREBY GIVEN that the Medical Board of California 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 Sheraton Gateway Los Angeles, 6101 West Century Blvd., Los Angeles, California, at **9:00 a.m., on April 30, 2010**. 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 not later than 5:00 p.m. **on April 26, 2010** or must be received by the Board 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 Sections 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 851, 2005, 2096, 2101, 2102, 2103, 2151, 2170, 2176 and 2183 of said Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1328 in Article 8 of Chapter 1, Division 13, relating to the Written Examinations recognized by the Board.

Existing regulations specify the types of examinations recognized by the Board. This proposal would recognize the examination combination of USMLE Steps 1 & 2 and NBME Step 3 to meet the examination requirement for a physician and surgeon license. It would also make a technical change to reflect the statutorily changed structure and elimination of the Division of Licensing.

CCR Title 16, section 1328, enumerates the combination of written examinations that are acceptable to the Board for the issuance of an initial physician & surgeon license. The regulations were last amended in 1999 to reflect the new USMLE steps 1, 2 and 3. At that time, staff and members attempted to anticipate all of the possible legitimate combinations of examinations that future applicants would need to have recognized. Until very recently, the Board's regulation has been adequate.

At present, however, the Board has received an application from a person who is unable to be licensed because the combination of examinations passed by the applicant do not meet the regulatory requirement.

### 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 Section 17561 Requires 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.

There are no costs associated with the proposed regulatory action. The proposed regulation only expands the acceptable, recognized written examination combinations for physician and surgeon licensure.

Impact on Jobs/New Businesses:

The Medical Board of California 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.

Cost Impact on Representative Private Person or Business:

The Medical Board of California is certain that there are no cost impacts to this proposed rulemaking.

This proposed regulation only expands the acceptable, recognized written examination combinations for physician and surgeon license.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations would not affect small businesses. This proposed regulation only will have an impact on those applying for licensure as a physician and surgeon.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice. 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 Medical Board of California has prepared an initial statement of the 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 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 Medical Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, California 95815.

## 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: Deborah Pellegrini, Chief of Licensing  
Medical Board of California  
Address: 2005 Evergreen Street, Suite 1200  
Sacramento, CA 95815  
Telephone No.: (916) 263-2389  
Fax No.: (916) 263-2387  
E-Mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Kevin A. Schunke  
Medical Board of California  
Address: 2005 Evergreen Street, Suite 1200  
Sacramento, CA 95815  
Telephone No.: (916) 263-2389  
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Website Access: Materials regarding this proposal can be found at [www.mbc.ca.gov](http://www.mbc.ca.gov).

# Medical Board of California

## Written Examinations

### Specific Language

#### 1328. Written Examinations.

(a) Each of the following written examinations is recognized by the ~~division~~ **Board** as meeting the examination requirement for licensure in sections 2101, 2102, 2103, and 2170 of the code:

- (1) FLEX (Federation Licensing Examination) component 1 plus FLEX component 2;
- (2) NBME (National Board of Medical Examiners) parts I and II plus FLEX component 2;
- (3) NBME parts I/USMLE step 2 plus FLEX component 2;
- (4) USMLE (United States Medical Licensing Examination) step 1/NBME part II plus FLEX component 2;
- (5) USMLE steps 1 and 2 plus FLEX component 2;
- (6) NBME parts I, II, and III (U.S. and Canadian graduates only);
- (7) NBME part I/USMLE step 2 plus NBME part III (U.S. and Canadian graduates only);
- (8) USMLE step 1/NBME part II plus NBME part III (U.S. and Canadian graduates only);
- (9) NBME part I/USMLE step 2 plus USMLE step 3;
- (10) USMLE step 1/NBME part II plus USMLE step 3;
- (11) NBME parts I and II plus USMLE step 3;
- (12) FLEX component 1 plus USMLE step 3;
- (13) USMLE steps 1, 2, and 3;
- (14) Qualifying examination, Medical Council of Canada;
- (15) FLEX minimum weighted average of 75 achieved in one sitting (prior to 1985);
- (16) USMLE steps 1 and 2 and NBME step 3**
- ~~(16)~~ **(17)** State board examinations administered before June 1, 1969.

(b) All parts of the examination of the LMCC (Licentiate of the Medical Council of Canada) shall qualify an applicant under section 2101 or section 2102 of the code to commence postgraduate training (clinical service) in a hospital in this state. In addition, the following written examinations are recognized by the division as qualifying international medical graduates to commence postgraduate training (clinical service) in a hospital in this state:

- (1) FLEX component 1;
- (2) NBME parts I and II;
- (3) NBME part I and USMLE step 2;
- (4) USMLE step 1 and NBME part II;
- (5) USMLE steps 1 and 2.

(c) If an applicant desires to take one of the examinations referred to in this section, he or she must personally make the arrangements to do so.

(d) Candidates shall comply with the procedures for examination established by the National Board or the USMLE examination committee, where applicable.