

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 24-099)

PROPOSED ORDER

An order of the Medical Examining Board to create Med 27, relating to Provisional Licensure for International Physicians.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 448.075, 448.40 (3), and 448.05 (2m), Stats.

Statutory authority: ss. 15.08 (5) (b), 448.40 (1), and 448.40 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. states that “The Board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.40 (1), Stats., provides that “[t]he board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

Section 448.40 (3), Stats., as created by 2023 Wisconsin Act 214, states that “the board may promulgate rules defining “substantially similar” under s. 448.05 (2m).”

Related statute or rule: None.

Plain language analysis: The objective of the proposed rules is to implement the statutory changes from 2023 Wisconsin Act 214. This was achieved by creating a new chapter in the Wisconsin Administrative Code, chapter Med 27, that outlines the requirements for provisional licensure for an international physician.

Summary of, and comparison with, existing or proposed federal regulation: None.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of the practice of medicine in Illinois, with input from the Illinois State Medical Board. The Illinois Department is also responsible for the promulgation of rules to implement certain sections of the Illinois Medical Practice Act of 1987. This Act contains requirements for applications, licensure, and discipline for physicians. In Illinois for an applicant that has graduated from a medical college outside of the US, it's territories, or Canada, their degree must be officially recognized by the country for medical licensure. Additionally, they must complete a 2 year course in a college of liberal arts and a postgraduate training course at least 12 months long approved by the Illinois Department. If the applicant has completed all requirements from a foreign medical school except the internship and "social service," they shall also submit an application to a medical college accredited by the Liaison Committee on Medical Education and complete any evaluation including nationally recognized tests or other examinations. Finally, they must also complete one academic year of supervised clinical training under that same medical college, in addition to the 12 month post graduate training program approved by the Illinois Department [225 Illinois Compiled Statutes ch. 60 s. 11].

Iowa: The Iowa Board of Medicine is responsible for the licensure and regulation of medicine and surgery in Iowa. Chapter 148 of the Iowa Code includes statutory requirements for licensure, composition and powers of the Iowa Board, and discipline for physicians. In Iowa an applicant must submit evidence of a diploma issued by a medical college approved by the Iowa Board, evidence of having passed an examination prescribed by the Iowa Board to determine qualification for medical licensure and evidence that the applicant has completed one year of postgraduate internship or resident training in a hospital approved by the Iowa Board. If the applicant does not have a diploma from an approved medical college, then they must submit a diploma from a medical college that has not been approved or disapproved by the Iowa Board and a certificate from the educational commission for foreign medical graduates or a similar accrediting body [Iowa Code ch. 148 s. 148.3].

Michigan: The Michigan Board of Medicine is responsible for the licensure and regulation of medical practice in Michigan. Act 368 Article 15 Part 170 of the Michigan Compiled Laws includes the regulations for medicine in Michigan, among several other occupations. Some of the requirements in this part include those for licensure, informed consent, and duties of the Michigan Board. In Michigan, an international applicant has to meet the following requirements: a degree in medicine from a medical school outside the US or Canada, demonstrate that they have engaged in the practice of medicine for no less than 10 years after completing their degree, complete no less than 3 years of postgraduate clinical training in an institution that is affiliated with a medical school listed on the directory of medical schools published by the World Health Organization, achieve a passing score on an initial medical licensure examination, and practice medicine under a clinical academic limited license issued by the Michigan Board for no less than 2 years with 800 hours per year in patient care [Michigan Compiled Laws s. 333.17031].

Minnesota: The Minnesota Board of Medical Practice is responsible for the licensure and regulation of medicine in Minnesota. Part 6800 of the Minnesota Administrative Code includes requirements for licensure, continuing education, and hearings before the Minnesota Board. [Minnesota Administrative Rules part 5600]. Chapter 147 of the Minnesota Statutes, or the Minnesota Medical Practice Act, also includes requirements for licensure, practice, and discipline for physicians [Minnesota Statutes ch. 147]. In Minnesota, foreign medical graduate applicants must submit evidence that they have graduated from a medical school approved by the Minnesota Board that is equivalent to accredited US or Canadian schools. If the applicant has graduated from a medical school that is not accredited by the Liaison Committee for Medical Education or the American Osteopathic Association, the applicant may use the Federation of State Medical Boards' Federation Credential Verification Service to verify their school. The applicant shall also submit evidence of certification by the Educational Council for Foreign Medical Graduates, that they have working ability in the English language to engage in the practice of medicine, evidence of one year of graduate clinical medical training in an accredited program approved by the Minnesota Board, and evidence of having passed an examination prepared by the US Medical Licensing Examination or the Medical Council of Canada or the Comprehensive Osteopathic Medical Licensing Examination [Minnesota Statutes s.147.037].

Summary of factual data and analytical methodologies:

The Board reviewed 2023 Wisconsin Act 214, as well as referenced a summary from the Federation of State Medical Boards of recently proposed and enacted legislation on international medical graduates from various other states, as well as the Certification Commission for Healthcare Interpreters description of a healthcare interpreter, when drafting chapter Med 27.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for 14 days on the Department of Safety and Professional Services website to solicit economic impact comments, including how the proposed rules may affect businesses, local municipalities, and private citizens. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Chapter Med 27 is created to read:

Chapter Med 27
INTERNATIONAL PHYSICIAN PROVISIONAL LICENSE

Med 27.01 Authority and purpose. The rules in this chapter are adopted by the Medical Examining Board pursuant to the authority delegated by ss. 15.08 (5) (b) and 448.40 (1) and (3), Stats.

Med 27.02 Definitions. As used in this chapter:

- (1) “Basic fluency” means the ability to perform the practice of medicine competently, independently, and unsupervised in any setting and in any modality where health care is provided with the knowledge, skill, and ability required to communicate accurately in the English language in accordance with established standards of the profession in this state.
- (2) “Country of practice” means the country where the applicant currently practices or has recently practiced medicine and surgery under a credential in good standing.
- (3) “Provisional license” is a license granted under s. 448.05 (2m), Stats.
- (4) “Substantially similar” means comparable in program content and educational experience needed to prepare a person for professional practice as a physician in the United States, but differing in format or method of delivery.

Med 27.03 Provisional licensure. An applicant for a provisional license to practice medicine and surgery shall submit evidence to the board that the applicant satisfies all of the following:

- (1) Submission of a completed application for provisional licensure.
Note: Instructions for applications are available from the department of safety and professional services’ website at <http://dps.wi.gov>.
- (2) Payment of the fee determined by the department under s. 440.05 (1), Stats.
- (3) Subject to ss. 111.321, 111.322, and 111.335, Stats., the applicant does not have an arrest or conviction record.
- (4) The applicant has an offer for full-time employment as a physician in this state from any of the following:
 - (a) A federally qualified health center as defined in s. 253.075 (1) (e), Stats.
 - (b) A community health center as defined in s. 250.15 (1) (a), Stats.
 - (c) A hospital as defined in s. 50.33 (2), Stats.
 - (d) An ambulatory surgical center as defined in 42 CFR 416.2.
 - (e) Any other health care facility approved by the board.
- (5) The applicant has been granted a medical doctorate or a substantially similar degree by an international medical program.
- (6) The applicant has completed a residency program or a postgraduate medical training program that is substantially similar to a residency program.

- (7) The applicant has practiced as a fully licensed physician in their country of practice for at least 5 years after completing a residency program or a postgraduate medical training program under sub. (6). For the purposes of this chapter, an applicant may have more than one country of practice if they are fully licensed to practice medicine and surgery in all the countries listed in their application.
- (8) In the last 5 years before the application was submitted, the applicant has practiced continuously as a physician in their country of practice for at least one year.
- (9) The applicant has been in good standing with the medical licensing or regulatory agency of their country of practice and does not have any pending disciplinary action against their license for the 5 years preceding the individual's application.
- (10) The applicant has passed all steps of the United States Medical Licensing Examination Administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organization.
Note: The United States Medical Licensing Examination is commonly referred to as the USMLE.
- (11) The applicant has obtained certification by the Educational Council for Foreign Medical Graduates, a successor organization, or another evaluation entity approved by the board.
Note: The Educational Council for Foreign Medical Graduates is commonly referred to as the ECFMG.
- (12) The applicant's federal immigration status and employment authorization legally permits them to work as a physician in this state.
- (13) The applicant demonstrates basic fluency in the English language. Demonstration of basic fluency in the English language may be accomplished by passage of a basic fluency English examination such as the Occupational English Test Medicine.

Med 27.04 Oral Examination. (1) In addition to the examination under s. Med 27.03 (10), the applicant may be required to complete an oral examination to address if they fail to sufficiently meet the requirements listed under s. Med 27.

- (2) The board will notify each applicant required to complete an oral examination of the time and place scheduled for that applicant's examination. Failure of an applicant to appear for an examination as scheduled may void that applicant's application and require the applicant to reapply for licensure, unless prior scheduling arrangements have been made with the board by the applicant.
- (3) The oral examination will be conducted by at least two board members. The oral examination is scored either pass or fail. The application is approved if all examining board members give them a passing grade. If the application fails, then it moves on to a full board oral examination. The board may deny an application when an applicant fails a full board oral examination pursuant to s. 448.06 (2), Stats.

Med 27.05 Practice limitations. A provisional license holder shall comply with all the following while performing the practice of medicine and surgery in this state:

- (1) The provisional license holder shall only practice under the supervision of a physician in a similar specialty who is licensed under ss. 448.04 (1) (a) or (ab), Stats.
- (2) The provisional license holder shall only practice in one of the practice settings under s. Med 27.03 (4) where they are employed.

- (3) Every 6 months or at the request of the board, the provisional license holder shall submit a statement certifying whether they are still employed as a physician in this state and whether they have been subjected to professional discipline as a result of their practice to the board. If the provisional license holder has been subjected to professional discipline, they shall submit a description of the circumstances to the board.

Med 27.06 Regular Licensure. A provisional credential holder who has practiced medicine and surgery full-time in this state while maintaining good standing, as determined by the Board, for 3 consecutive years, shall petition the Board for a regular license under s. 448.04 (1) (a), Stats. The supervising physician under s. Med 27.05 (1) shall submit written confirmation to the board that the applicant has successfully completed the requirements for a regular license under s. 448.04 (1) (a), Stats.

Med 27.07 Complaints, investigations, suspension, and revocation. The medical examining board may receive and investigate complaints against provisional license holders to determine whether a provisional license holder has violated the rules in this chapter or has violated any state or federal law or any other jurisdiction related to the practice of medicine. The board may reprimand a provisional license holder or deny, limit, suspend, or revoke a provisional license as a result of any such investigations and complaints.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Medical Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Medical Examining Board