

10.32.01 General Licensee and Initial Applicant Provisions

.01 Scope.

A. This chapter governs certain requirements for all licensees and initial applicants regulated by the Maryland Board of Physicians under this subtitle.

B. Federal Employee Exception from Licensure.

(1) This subtitle does not apply to an individual licensed by another state while employed in the service of the federal government, while the individual is practicing a health care profession regulated by the Board within the scope of the employment.

.02 Definitions

(A) In this chapter, the following terms have the meanings as indicated.

(B) Terms Defined.

(1) "Applicant" means an individual applying for initial licensure or registration, renewal, or reinstatement pursuant to Health Occupations, Title 14 and 15, Annotated Code of Maryland;

(2) "Board" has the meaning stated in Health Occupations, § 14-101, Annotated Code of Maryland;

(3) "Cease and desist order" means an order of the Board issued under Health Occupations, § 14-206(e), Annotated Code of Maryland, prohibiting an individual for practicing without a license or registration or from taking an action for which there are grounds for discipline under Health Occupations, Titles 14 and 15, and which poses a serious risk to the health, safety, and welfare of the patient.

(4) "Central Repository" has the meaning stated in Health Occupations, § 14-308.1, Annotated Code of Maryland;

(5) "Certification" means recognition of an individual who has satisfied certain standards required by a medical licensing authority or specialty board recognized by the Board.

(6) "Criminal history records check" means the performance of both a State criminal history check by the Central Repository, and a national criminal history check by the Federal Bureau of Investigation.

- (7) *“Federal employee” means an individual who is employed by the United States government, including the executive, legislative, and judicial branches, and those employed by independent agencies and commissions;*
- (8) *“Involuntarily terminated or restricted” means a termination, relinquishment, restriction, or reduction of a health care practitioner’s privileges, employment, or a contract with an employer after:*
- (a) *The employer notified the health care practitioner that discharge or termination of privileges, employment, or a contract, or that proceedings possibly leading to discharge or termination of privileges, employment, or a contract, would occur if the health care practitioner would not resign;*
 - (b) *Being notified that an investigation by the employer may begin; or*
 - (c) *Being asked to respond to a complaint made to the employer.*
- (9) *“Licensee” means an individual to whom the Board issues a license to engage in a health care profession regulated by the Board.*
- (10) *“Licensure” means permission to engage in a health care profession regulated by the Board;*
- (11) *“Oral Proficiency Interview” means the examination of the American Council on the Teaching of Foreign Languages designed to evaluate the spoken English proficiency of those whose native language is not English;*
- (12) *“Orientation program” means a program of information approved by the Board which includes:*
- (a) *The statutes and regulations governing the practice of the regulated profession in Maryland;*
 - (b) *Boundary issues; and*
 - (c) *The role and functions of the Board.*
- (13) *“Professional school” means a school with a curricula that leads to a professional license, certification, or registration issued under the Health Occupations Article, Annotated Code of Maryland, including the medical school of graduation or the medical school, where an applicant obtained medical education, that is affiliated with the institution that conferred the medical degree of on the applicant;*
- (14) *“Registrant” means an individual to whom the Board issues a registration;*
- (15) *“Registration” means limited permission to perform certain health care duties;*
- (16) *“Speech impairment” means a disorder of the voice, articulation, speech sounds, or fluency in the speaker’s native language;*
- (17) *“USMLE” means United States Medical Licensing Examination.*

.03 General Applicant Requirements.

A. An applicant shall:

- (1) Be at least 18 years old, unless otherwise required by statute;*
- (2) Be of good moral character; and*
- (3) Demonstrate oral and written competency in English in accordance with .04 of this chapter.*
- (4) Pay an application fee as established by the Board, except as provided in § I of this regulation;*
- (5) Complete an application on a form approved by the Board*

B. Certifying or verifying authorities.

- (1) A certifying or verifying authority shall send all required certificates and verifications directly to the Board for applicants;*
- (2) The Board may not accept certificates and verifications sent to, or by, the applicant; and*
- (3) The Board may accept documentation from the Federation Credentials Verification Service as evidence of having met some of the requirements of this subtitle.*

C. If any documents required under this chapter are in a language other than English, the applicant shall submit the certified translation and bear the expense of translation by a certified translator.

D. On forms supplied by the Board, an applicant shall agree to:

- (1) Release to the Board relevant information from appropriate individuals, other institutions, and government agencies, including but not limited to, the National Practitioners Data Bank, employers, and other licensing bodies;*
- (2) Allow the Board to release information that is not statutorily protected; and*
- (3) Provide any additional information needed to consider the application.*

E. During the application process, if there are concerns regarding an applicant's physical, mental, or professional competency, the Board may request additional information regarding the applicant's competency from any government entity or person as defined in Health Occupations, §1-101, Annotated Code of Maryland.

F. Criminal History Records Check.

- (1) An applicant shall complete a criminal history records check in accordance with Health Occupations, § 14-308.1, Annotated Code of Maryland.*

(2) After receipt of the criminal history record information, the Board shall consider:

- (i) The age at which the crime was committed;*
 - (ii) The nature of the crime;*
 - (iii) The circumstances surrounding the crime;*
 - (iv) The length of time that has passed since the crime;*
 - (v) Subsequent work history;*
 - (vi) Employment and character references; and*
 - (vii) Other evidence that demonstrates whether the applicant poses a threat to public health or safety.*
- (3) The Board shall issue an applicant that meets the requirements set forth in Health Occupations, Titles 14 and 15, Annotated Code of Maryland, and this regulation a license or registration.*
- (4) The Board may not issue a license or registration if the criminal history record information required under this subtitle and Health Occupations, § 14-308.1, Annotated Code of Maryland, has not been received.*

G. The Board has designated a 3-month period for action upon applications as follows:

- (1) Within 60 days after receipt of an application, the Board or its Executive Director will determine whether an application is complete;*
- (2) If the Board or Executive Director determines that the application is not complete, the Executive Director or the Executive Director's designee shall send a notice of deficiency to the applicant;*
- (3) Upon receipt of the notice, the applicant shall correct the deficiency within 30 days of the notice;*
- (4) If the applicant fails to correct the deficiency within the required period, the application shall be closed, and the applicant shall be required to submit a new application and pay the required fees.*

H. An applicant shall meet any additional license, renewal, and reinstatement requirements established by the Board.

I. Fee Waiver.

- (1) The Board will waive the fee for qualified applicants who have completed a waiver application on a form approved by the Board.*
- (2) To qualify for the fee waiver, an applicant must be a verified:*
 - (a) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state;*
 - (b) Veteran who has been discharged from active military duty under circumstances other than dishonorable within one year of submitting the application; or*
 - (c) Spouse of a:*
 - (i) Veteran;*
 - (ii) Service member who died within one year before the date of submitting the application; or*

(iii) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state.

.04 English Proficiency Requirements.

A. An applicant who holds a valid, unrestricted license, certification, or registration issued by another state health occupations board that requires evidence of English proficiency for licensure, certification, or registration is exempt from the requirements of this regulation.

B. An applicant who holds an Education Commission for Foreign Medical Graduates Certification is exempt from the requirements of this regulation.

C. An applicant shall provide to the Board:

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

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

(3) Documentation of a passing score on the USMLE Step 2 Clinical Skills; or

(4) Receiving a score of:

(a) At least 5 on the “Speaking Section” of the Internet-based Test of English as a Foreign Language; and

(b) At least 5 on all other sections of the Internet-based Test of English as a Foreign Language; or

(c) Advanced or higher on the Oral Proficiency Interview.

D. Applicants wishing to claim a speech impairment after failing an English proficiency test shall submit a written request for a waiver of C.(4)(a) on a Board-approved form.

.05 Withdrawal of Application.

A. An applicant may not withdraw an initial, renewal, or reinstatement application without permission of a disciplinary panel if:

(1) The applicant is currently charged in another jurisdiction with conduct which would be ground for disciplinary action, Health Occupations, Title 14 or Title 15, Annotated Code of Maryland;

(2) The applicant is under investigation in another jurisdiction for an allegation concerning the conduct that would be grounds for disciplinary action under Health Occupations, Title 14 or Title 15, Annotated Code of Maryland;

(3) The Board is investigating the applicant; or

(4) The disciplinary panel has issued a notice of intent to deny licensure.

B. The disciplinary panel's decision under § A of this regulation to allow the applicant to withdrawal an application is discretionary.

C. In determining whether to allow the withdrawal of an application, the disciplinary panel may consider such factors as the following:

(1) Issues of competence or conduct that caused the matter to be investigated;

(2) Duty to protect the public in other jurisdictions from duplicative expenditures on investigations of applications;

(3) Honesty, candor, and cooperation of the applicant during the application process;

(4) Whether a notice of intent to deny licensure or registration has been issued;

(5) Whether the applicant is licensed in multiple states; and

(6) Whether other states have taken public disciplinary action.

.06 Expedited Initial Licensure or Registration by Reciprocity or Endorsement

A. Reciprocity.

(1) An applicant may apply for expedited initial licensure or registration by reciprocity if the Board has:

(a) Approved the profession to be licensed or registered by reciprocity; and

(b) Entered into a Board-approved agreement with the other jurisdiction.

B. Endorsement.

(1) An applicant may apply for expedited initial licensure or registration by endorsement if the Board has approved the profession to be licensed or registered by endorsement.

(2) The Board will accept applicant's current license or registration as sufficient evidence that the applicant has met some of the requirements for licensure or registration.

C. Applicant Requirements for Reciprocity and Endorsement.

(1) An applicant shall:

(a) Have an active, unrestricted license or registration to practice the profession in another jurisdiction that, at the time the applicant was licensed or registered, had licensure or registration requirements that were substantially similar to or exceeded those set forth in this subtitle.

(b) Be in good standing under the laws of every jurisdiction where the individual is licensed or registered; and

(c) Submit to a State and national criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland.

(2) Documentation. An applicant shall submit to the Board:

(a) An application on a form provided by the Board;

(b) The application fee as set by the Board;

(c) Evidence of compliance with § C(1) of this regulation; and

(d) Any additional documentation that is needed for the Board to evaluate an application.

(3) On receipt of the documentation required in § C(2) of this regulation, the Board shall process the application in an expedited manner.

(5) The Board may not issue a license or registration if the criminal history records information, pursuant to § C(1) of this regulation, has not been received.

(6) After a license or registration is issued, the licensee or registrant is subject to the Board's jurisdiction and shall comply with all laws and regulations governing the practice of the profession in the State.

.07 License or Registration Term and Renewal.

A. This section applies to all licensees or registrants with the exception of a physician:

(1) Licensed by conceded eminence;

(2) Has a license on inactive or emeritus status; or

(3) Who is a holder of a limited license for postgraduate teaching.

B. The term of a license or registration issued by the Board shall not exceed 3 years.

C. A license or registration expires on a date set by the Board unless it is renewed by the licensee or registrant for an additional term.

- D. A licensee or registrant may apply for renewal of a license or registration for an additional term before the license or registration expires if the licensee or registrant meets the requirements set forth in Health Occupations, Titles 14 and 15, Annotated Code of Maryland.*
- E. Before the expiration of a license or registration, a licensee or registrant applying for renewal shall complete the application for renewal on a form approved by the Board.*
- F. A licensee applying for renewal shall pay the renewal fee and any additional charges set by the Board.*
- G. The Board shall send a renewal notice to the licensee or registrant by email at least 1 month before the license or registration expires and in accordance with Health Occupations, Titles 14 and 15, Annotated Code of Maryland.*
- H. The Board may mail a renewal notice by first-class mail to a licensee or registrant upon request.*
- I. Failure to receive a renewal notice does not excuse a licensee or registrant from complying with D. of this regulation.*
- J. A licensee applying for the first renewal shall have completed an orientation program approved by the Board. The Board may defer this requirement in cases of individual hardship. The licensee must notify the Board of any hardship prior to the first renewal and the initiation of the audit process.*
- K. Continuing Education Waiver:*
- (1) The Board will waive the continuing education requirement for qualified military applicants who have:*
- (i) Been deployed during the current renewal period; and*
 - (ii) Completed a continuing education waiver application on a form approved by the Board.*
- (2) To qualify for the continuing education waiver, an applicant must be a verified:*
- (i) Service member who currently serves in the US Armed Forces, a reserve component of the Armed Forces, or the National Guard of any state; or*
 - (ii) Veteran who has been discharged from active military service under circumstances other than dishonorable within one year of submitting the application.*

.08 Code of Ethics

- A. A licensee or registrant shall comply with the profession's current code of ethics if the profession has a current code of ethics.*
- B. A breach of ethical principles may be considered immoral or unprofessional conduct.*
- C. All services shall be provided with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems.*

.09 Examination.

A. In reviewing an application for licensure or in investigating an allegation brought against a licensed physician or an allied health practitioner regulated by the Board under Health Occupations, Titles 14 and 15, Annotated Code of Maryland, the Rehabilitation Program may request the Board to direct or the Board or a disciplinary panel on its own initiative may direct, the applicant, registrant, or licensee to submit to an appropriate examination under Health Occupations, § 14-402, Annotated Code of Maryland.

B. In return for the privilege given by the State issuing a license, certification, or registration, the licensed, certified, or registered individual is deemed to have:

(1) Consented to submit to an examination under this regulation, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports.

C. The unreasonable failure or refusal of the applicant or licensee to submit to an examination is prima facie evidence of the applicant's or licensee's inability to practice the regulated profession competently, unless the Board or disciplinary panel finds that the failure or refusal was beyond the control of the applicant or licensee.

D. The Board shall pay the costs of any examination made under this regulation for:

(1) A licensee; or

(2) An applicant who was not previously licensed by the Board.

E. An applicant for reinstatement shall pay the cost of any examination directed by the Board under this regulation.

.10 Notification Requirements.

An applicant, licensee, or registrant shall notify the Board by electronic or first-class mail of any of the circumstances listed in this section within 30 days of the occurrence of or notification about these circumstances:

A. Any action, by a state licensing or disciplinary board, or a comparable body in the armed services, denying an application for licensure, reinstatement, or renewal;

B. Any action taken by a state licensing or disciplinary board, or a comparable body in the armed services, including but not limited to limitations of practice, required education, admonishment, reprimand, suspension, surrender, or revocation for an act that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;

- C. An investigation or charge brought by a licensing or disciplinary body or comparable body in the armed services;*
- D. A withdrawal of an application for reasons that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;*
- E. An investigation or charge brought by an employer that would be grounds for action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;*
- F. If the practice was involuntarily terminated or restricted by an employer for reasons that would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;*
- G. A plea of guilty, nolo contendere, or no contest to a conviction, or receipt of probation before judgment for a criminal act;*
- H. A plea of guilty, nolo contendere, or no contest to a conviction, or receipt of probation before judgment for an alcohol or controlled dangerous substance offense, including but not limited to driving while under the influence of alcohol or controlled dangerous substances;*
- I. An arrest which would provide a basis for investigation or charge which would be grounds for disciplinary action under Health Occupations Article, Title 14 or Title 15, Annotated Code of Maryland;*
- J. A physical, professional, or mental condition that currently impairs the ability to practice the regulated profession;*
- K. The filing or settling of a medical malpractice action in which the applicant, licensee, or registrant is, or has been, named as a defendant within the past 5 years; or*
- L. Failure to notify the Board of the circumstances in this section may result in disciplinary action.*

.11 Internet Profiles.

The Board shall maintain an internet profile for licensees and registrants in accordance with Health Occupations, Title 14 and Title 15, Annotated Code of Maryland.

.12 Address; Name; Badge Identification.

A. A licensee shall notify the Board in writing or through electronic means of a change in name or address within 30 days after the change.

B. A licensee who fails to comply with subsection (A) of this section is subject to an administrative penalty of \$100.

C. Name under which Licensee May Practice.

(1) A licensee shall be licensed to practice only under the name on the license.

(2) A licensee wishing to change the name under which the licensee practices shall obtain the Board's approval.

(3) The failure of a licensee to practice under the name on the license may be considered unprofessional conduct by the Board and grounds for disciplinary action.

D. Name badge identification.

(1) This subsection does not apply to licensed physicians.

(2) A licensee or registrant shall wear a badge that identifies them as the licensed or registered profession when practicing as the licensed or registered profession.

.13 Prohibitions.

A. This section does not apply to individuals who are exempt from licensure or registration under Health Occupations Article, Annotated Code of Maryland, or this subtitle.

B. Prohibitions.

(1) Except as otherwise provided in this subtitle:

(a) A licensee may not supervise an individual without a license when a license is required by State or federal law or regulation; and

(b) A licensee may not practice with an unauthorized individual.

(2) A licensee is subject to disciplinary action for a violation of this section.

C. Unprofessional conduct.

(1) Unprofessional conduct in the practice of medicine, under Health Occupations Article, §14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the statute and regulations governing the physician's duty to supervise.

(2) Unprofessional conduct in the practice of supervisor's profession under Health Occupations, Titles 14 and 15, Annotated Code of Maryland, includes the failure of a supervisor to comply with the statute and regulations governing the supervisor's duty to supervise; and

(3) Delegation of duties by a supervisor beyond the scope of practice or failure to appropriately supervise a licensee or registrant may be considered unprofessional conduct in the practice of the supervisor's profession.

D. Unlicensed Practice.

(1) An individual may not practice without a license or registration when a license or registration is required under State or federal law or regulation.

(2) A licensee or registrant who fails to renew cannot practice until the license or registration is reinstated.

(3) An applicant may not practice until authorized by the Board.

(4) An individual may not represent to the public in any way that the individual is authorized to practice a regulated profession unless authorized by the Board.

(5) An individual in violation of this section may be subject to a cease and desist order for a violation of this section.

(6) An individual in violation of this section may be subject to a civil penalty.

.14 Administrative Penalties.

A. The Board may impose an administrative penalty not exceeding \$15,000 per occurrence on a licensee for:

(1) Failure to produce all documents in response to a Board subpoena;

(2) Dispensing a drug without the proper authority from a valid dispensing permit; and

(3) Failure to complete a supplemental application for a compact license.

B. The Board shall pay any penalty collected under this section to the Board of Physicians fund.

.15 Setting of Fees.

- A. All fees not set by statute will be set by the Board.*
- B. A copy of the current fee schedules are set forth in regulations.*
- C. Fees paid to the Board are nonrefundable.*
- D. The Board may charge appropriate fees for any services required to adequately fund the statutory and regulatory duties of the Board prior to publication in the current fee schedule.*

.16 Severability

If any provision of the regulations in this subtitle is declared unconstitutional or invalid, or the application of these regulations to any person or circumstances is held invalid, the applicability of the provision to other persons and circumstances and the constitutionality or validity of every other provision of these regulations is not to be affected.