

Emergency Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The pandemic affected the administration of exams for MDs, preventing otherwise-qualified and much-needed MDs from becoming licensed in Vermont due to timeline restrictions. These rule will alleviate this.

I approve the contents of this filing entitled:

The Board of Medical Practice Emergency Rule

/s/ Tod W. Daloz , on 9/16/22
(signature) (date)

Printed Name and Title:

Todd W. Daloz
Deputy Secretary

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)



1. TITLE OF RULE FILING:

The Board of Medical Practice Emergency Rule

2. ADOPTING AGENCY:

Department of Health

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Natalie Weill

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://www.healthvermont.gov/about-us/laws-regulations/public-comment>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: David Englander

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7282 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:



(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

26 V.S.A. § 1351(e), 26 V.S.A. § 1391(c), 3 V.S.A. § 801(b)(11).

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

26 V.S.A. § 1351(E) states: "The Commissioner of Health shall adopt, amend, and repeal rules of the Board that the Commissioner determines necessary to carry out the provisions of this chapter and chapters 7, 29, 31, and 52 of this title."

26 V.S.A. § 1391(c) states: "An applicant shall satisfy the Board's requirements for medical licensing examination as established by the Board by rule. The Board may identify which examinations are accepted, set passing standards, and set limits on time and numbers of attempts for exams. The Board may establish by rule exceptions or alternative means to meet examination requirements."

8. CONCISE SUMMARY (150 WORDS OR LESS):

COVID-19 disrupted access to nationwide testing required to become a Vermont MD. Delayed access caused some applicants to exceed a time limitation in the rule. The proposed rule extends the time limit for applicants affected by the disruption.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Because of the COVID-19-related disruptions to testing, a number of MDs exceeded the Vermont time limit for completing the US medical exam sequence. This impacts the ability for applicants to become Vermont licensed MDs and thus negatively affects hospitals, practices, and patients access to physicians. Therefore, the Board of Medical Practice must amend the rule to extend the time limits to correct the implications from the delays.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13(A):



Without this rulemaking, some applicants will not be able to become Vermont licensed MDs.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

MD applicants, the Board of Medical Practice, Vermont hospitals, practices, and patients.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

There is no anticipated economic impact to the proposed rule change.

13. A HEARING IS NOT SCHEDULED.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 09/21/2022

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

03/20/2023

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

US Medical Licensing Examination (USMLE)

Board of Medical Practice

Doctor

License

Examination

MD

MD/PhD



280 State Drive - Center Building
Waterbury, VT 05671-1000



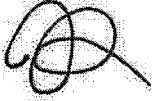
OFFICE OF THE SECRETARY
TEL: (802) 241-0440
FAX: (802) 241-0450

JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Jim Condos, Secretary of State
FROM: Jenney Samuelson, Secretary, Agency of Human Services 
DATE: April 1, 2022
SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3 V.S.A. § 801 et seq.

Cc: Todd W. Daloz



Adopting Page



Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

The Board of Medical Practice Emergency Rule

2. ADOPTING AGENCY:

Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):



Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

The Board of Medical Practice Emergency Rule

2. ADOPTING AGENCY:

Department of Health

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Board of Medical Practice

MD applicants seeking Vermont licensure

Vermont hospitals

Vermont medical practices

Vermonters accessing the medical system

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

There is no anticipated impact on schools.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Because there is no anticipated impact on schools, there is no alternative.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

There is no anticipated impact on small businesses.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Without this rule amendment, hospitals, medical practices, and patients throughout Vermont would see a decrease in access to healthcare services, negatively impacting public health and the healthcare system.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Department has provided the information that is available.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

The Board of Medical Practice Emergency Rule

2. ADOPTING AGENCY:

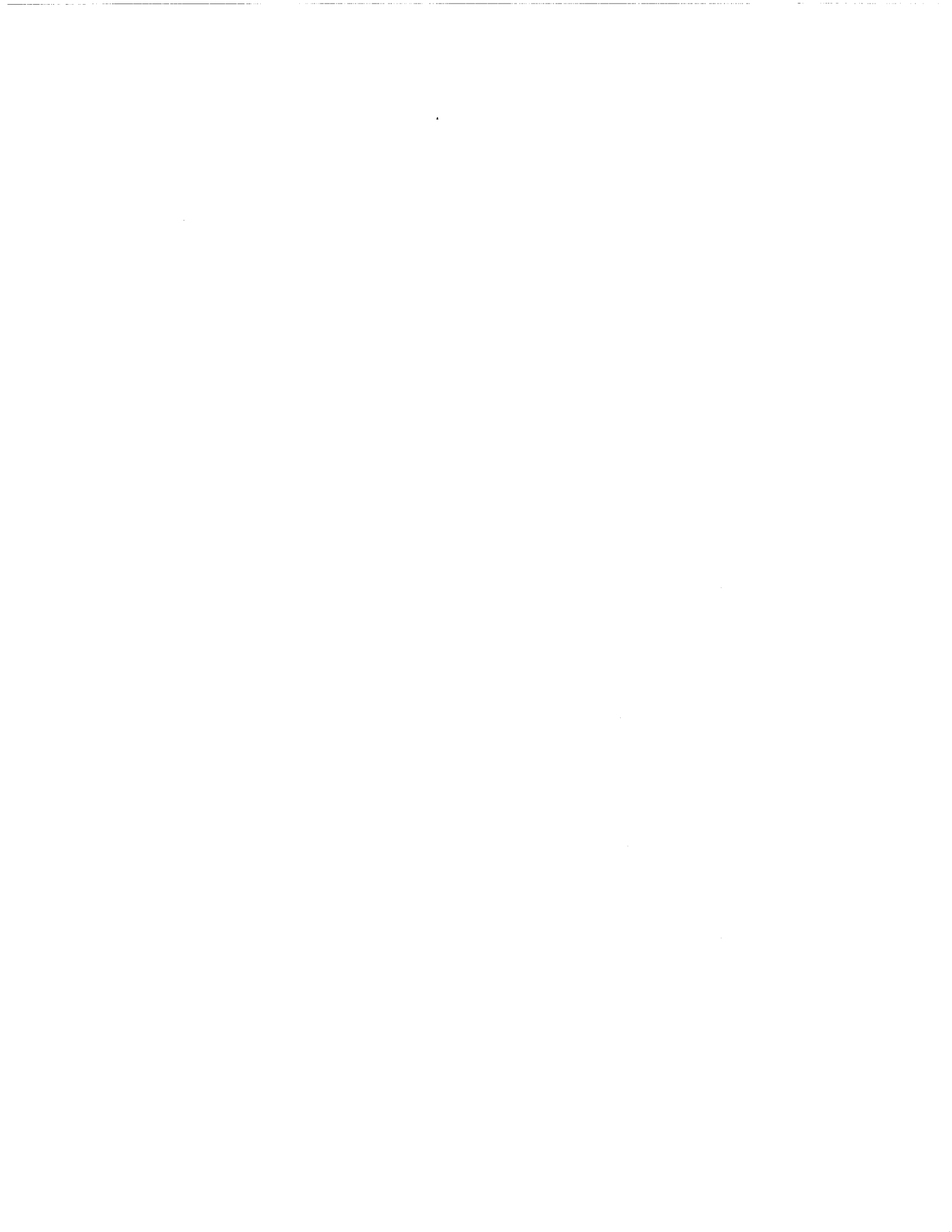
Department of Health

3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact.

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
No impact.



7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No impact.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
Because there is no impact, this analysis is sufficient.



Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. **TITLE OF RULE FILING:**

The Board of Medical Practice Emergency Rule

2. **ADOPTING AGENCY:**

Department of Health

3. **PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

The rule is posted on the Department of Health's website: <https://www.healthvermont.gov/about-us/laws-regulations/public-comment>

4. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

The Board of Medical Practice.

Vermont Medical Society

Marked
Up Copy

Chapter 1 – Board Rules

Subchapter 1 –

THE BOARD OF MEDICAL PRACTICE EMERGENCY RULE

SECTION I. GENERAL PROVISIONS

1.0 Overview

1.1 Purpose

The purpose of the Board of Medical Practice is to protect the public health, safety and welfare. The Board does this by setting standards for issuing licenses and certifications, by licensing and certifying only qualified applicants, by investigating unprofessional conduct and unlicensed practice of medicine, by disciplining and regulating the practices of license and certificate holders, and by providing licensees with guidelines, policies, and continuing medical education.

1.2 Authority

This rule is adopted pursuant to 26 V.S.A. § 1351(e) and 3 V.S.A. § 831(d).

1.3 Scope

This rule establishes requirements for the licensing or certification, and regulation of physicians, physician assistants, podiatrists, anesthesiologist assistants, and radiologist assistants by the Board of Medical Practice.

2.0 Definitions

2.1 "ABMS" means the American Board of Medical Specialties.

2.2 "Accredited Medical School" means a medical school accredited by the LCME or the Canadian equivalent.

2.3 "ACGME" means the Accreditation Council for Graduate Medical Education.

2.4 "AMA" means the American Medical Association.

2.5 "Board" means the Board of Medical Practice created by 26 V.S.A. Chapter 23.

2.6 "Board-approved medical school" means a medical school that:

2.6.1 Appears on the official California Recognized Medical Schools list; or

- 2.6.2 A foreign medical school that has been accredited under the system for medical school accreditation established by the Educational Commission for Foreign Medical Graduates (ECFMG) and deemed to meet the minimum requirements substantially equivalent to the requirements of medical schools accredited by the Liaison Committee on Medical Education or the Committee on Accreditation of Canadian Medical Schools; or
- 2.6.3 A medical school that was approved as provided by the standards established by the United States National Committee on Foreign Medical Education and Accreditation Certification, but only if the applicant holds American Board of Medical Specialties board certification, or meets all eligibility requirements for such certification and is only lacking current licensure.
- 2.7 "CACMS" means the Committee on Accreditation of Canadian Medical Schools.
- 2.8 "CFPC" means the College of Family Physicians of Canada.
- 2.9 "CME" means continuing medical education as defined by the Accreditation Council for Continuing Medical Education (ACCME).
- 2.10 "CPME" means Council on Podiatric Medical Education of the American Podiatric Medical Association.
- 2.11 "ECFMG" means the Educational Commission for Foreign Medical Graduates.
- 2.12 "Fifth pathway" means a program of medical education that meets the following requirements:
 - 2.12.1 Completion of two years of pre-medical education in a college or university of the United States.
 - 2.12.2 Completion of all the formal requirements for the degree corresponding to doctor of medicine except internship and social service in a medical school outside the United States which is recognized by the World Health Organization.
 - 2.12.3 Completion of one academic year of supervised clinical training sponsored by an approved medical school in the United States or Canada.
 - 2.12.4 Completion of one year of graduate medical education in a program approved by the Liaison Committee on Graduate Medical Education of the American Medical Association.
- 2.13 "FLEX" means the Federation Licensing Examination.
- 2.14 "Foreign medical school" means a legally chartered medical school in a sovereign state other than the United States or Canada.
- 2.15 "Immediate family" means the following: a spouse (or spousal equivalent), parent, grand-parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or any other person who is permanently

