

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS
AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.036 and 334.125, RSMo Supp. 2014, the board adopts a rule as follows:

20 CSR 2150-2.200 Assistant Physician - Application for Licensure is adopted.

A notice of proposed rulemaking containing the proposed rule was published in the *Missouri Register* on August 1, 2016 (41 MoReg 971-975). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received two (2) comments on the proposed rule and eleven (11) general comments regarding the licensure of assistant physicians.

COMMENT #1: A comment was received from the Missouri Academy of Family Physicians (MAFP) suggesting subsection (2)(D) - The “Accreditation Counsel (should be “Council”) on Graduate Medical Education (ACGME)” is not part of the American Medical Association (since 2000, per ACGME website: <http://www.acgme.org/About-Us/Overview/ACGME-History>); and the “Education Committee” of the American Osteopathic Association has been changed to “Program and Trainee Review Council”.

RESPONSE AND EXPLANATION OF CHANGE: The board appreciates the comments and amends the language in subsection (2)(D) of 20 CSR 2150-2.200 as suggested.

COMMENT #2: A comment was received from Washington University in St. Louis School of Medicine (WUSTL) stating their comments submitted in July 2015 during the pre-filing review, encouraged the board to seek records from hospitals with which the AP applicant had previously trained, specifically faculty evaluations. We recognize that the proposed rule under (4)(F) requires the applicant to disclose if, “the applicant has ever had any adverse action taken against his or her privileges at any hospital...” While this standard is weaker, and relies on self-disclosure by the candidate, we recognize it represents a step toward determining if the applicant has encountered prior difficulties in their medical training. We support the required disclosure in the proposed rule, but continue to encourage the board to go farther and request a summary of faculty evaluations from the applicant’s former hospital or residency program.

RESPONSE: Paragraph (2)(E)(6) of this rule requires applicants for licensure to submit proof of hospital affiliation from each hospital where the applicant has held admitting privileges in the last ten (10) years or to submit a letter from the hospital to include the dates the applicant had admitting privileges and where there was ever any adverse action taken against those privileges,

including, but not limited to, revocation, suspension, or limitation of privileges or if the applicant ever resigned privileges while under investigation. Therefore, the board makes no changes.

COMMENT #3: Comments were received from Tim deVries, and Joseph Irvin supporting assistant physician licensure stating that law will be beneficial and allow Missouri to be a trend setter.

RESPONSE: No action was taken by the board.

COMMENT #4: A comment was received from Irene Scott generally summarizing the assistant physician law. No comment of support or opposition was included.

RESPONSE: No action was taken by the board.

COMMENT #5: A comment was received from Faiza Shekhani supporting the rules and stating issues of criticism of the assistant physician could be addressed by preferring United States of America (US) nationals with more experience in patient care (whether in the US or overseas) and US nationals with USMLE step 3 exam, passed within past 2 years.

RESPONSE: No action was taken by the board as this change would require legislative action by the Missouri General Assembly.

COMMENT #6: Comments were received from fourteen (14) individuals, Chris Strupp, Melissa Kovcas, Falin Larson, Danniell Lewis, Whitney James, Young Kim, Faisal Ishfaq, Ulziibat Person, Maimoona Arshee, Subpal Gill, Maira Beasely, Adil Iqbal, and Sabahath Shaikh requesting a change or abolishment of section 334.036 (1)(b), RSMo as it relates to successful completion of Step 1 and Step 2 of the United State Medical Licensing Examination (UMSLE) within a two- (2-) year period immediately preceding the application for licensure as a assistant physician. Commenters stated this language as written would prohibit them from being granted licensure as an assistant physician.

RESPONSE: No action was taken by the board as this change would require legislative action by the Missouri General Assembly.

COMMENT #7: Comments were received from William Blanchard and Kemberly Briggs requesting an amendment to the language as written in section 334.036 (1)(b), RSMo, or a waiver be granted as it relates to no more than three (3) years after graduation from medical college or osteopathic medical college be changes. The commenters stated that the language as written would prohibit them from being granted licensure as an assistant physician.

RESPONSE: No action was taken by the board as this change would require legislative action by the Missouri General Assembly.

COMMENT #8: A comment was received from Malkiat Singh asking the board to consider proof of proficiency of an applicant if they are disqualified by the requirements of section 334.036 (1)(b), RSMo.

RESPONSE: No action was taken by the board as this change exceeds the board's scope and rulemaking authority. This change would require legislative action by the Missouri General Assembly.

COMMENT #9: A comment was received from Hasfa Hassan stating that many international medical graduates have more clinical exposure than an American medical graduate because they have more clinical exposure during their medical education or have completed a post graduate training program in another country. The commenter suggested the board take into consideration the applicant's clinical exposure during medical school and the international graduate's post graduate training.

RESPONSE: No action was taken by the board as this change exceeds the board's scope and rulemaking authority. This change would require legislative action by the Missouri General Assembly.

COMMENT #10: Three (3) comments from Esteban Ivanoff-Tzvetcoff, Muhammed Saad, Aruna Sana were received stating they believe it is ridiculous that physician assistants and nurse practitioners have less training and having to pass easier exams are allowed to practice medicine, while medical students who did not match because there are not enough residency programs. One (1) commenter stated that this was plainly discriminatory and not democratic. Two (2) of the comments suggested assistant physicians should have three (3) months of direct supervision by a licensed physician before starting an independent job; assistant physicians should be allowed to take the Missouri State Medical Board exam after twenty-four (24) months of work experience under the supervision of a licensed physician; and assistant physicians should be allowed to practice independently after passing the State Medical Board exam (within 3 years).

RESPONSE: No action was taken by the board as this change exceeds the board's scope and rulemaking authority. This change would require legislative action by the Missouri General Assembly.

COMMENT #11: A comment was received from Tricia Degres for future rule considerations and/or additions so as not to delay the current timeline of the assistant physician being finalized this December. These considerations include rural residency credit; converting the assistant physician license to a full physician's license following a three (3) year rural residency; allowing the assistant physician to collaborate with a nurse practitioner; and expanding the area of critical shortage to include, but not be limited to, emergency rooms and veteran administration (VA) hospitals

RESPONSE: The board encourages the commenter to contact a member of the Missouri General Assembly.

COMMENT #12: A comment from Brian Sweeney was received regarding the denial of a license failure to meet any requirements of (a) Chapter 334, RSMo, or 20 CSR 2150-2.200 through 20 CSR 2150-2.270; (b) Failure to demonstrate good moral character; or (c) Any cause listed in section 334.100, RSMo. Chapter 334,040, RSMo states "The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three (3) attempts on licensing examinations administered in one (1) or more states or territories of the United States, the District of Columbia or Canada." Many applicants who have passed the examination in more than three (3) attempts will not be qualified for an assistant physician

license. The commenter requested the Board remove this requirement and stated that the current licensure requirements in many states are being reviewed to reduce barriers to entry as a response to the Supreme Court ruling "North Carolina State Board of Dental Examiners v FTC".

RESPONSE: No action was taken by the board as this change exceeds the board's scope and rulemaking authority. This change would require legislative action by the Missouri General Assembly.

COMMENT #13: A comment was received from the American Association of Physician Assistants (AAPA) stating assistant physician-related rules must be created in its own chapter of the administrative code because assistant physicians do not meet the standard definitions of physicians and do not meet the Missouri criteria for physician licensure. Similarly, AAPA opposes adding the assistant physician regulations to the Physician Assistant chapter of the administrative code.

RESPONSE: Chapter 2 of 20 CSR 2150 contains rules and regulations of several categories of physician licensure. The board felt Chapter 2 was the appropriate chapter of the 20 CSR 2150 to place the assistant physician rules.

20 CSR 2150-2.200 Assistant Physician - Application for Licensure

(2) Applicants applying for licensure shall submit the following:

(D) Proof that the applicant has passed step 2 or level 2 of a board approved medical licensing examination within the two (2) year period immediately preceding application for licensure as an assistant physician, but in no event more than three (3) years after graduation from medical college or osteopathic medical college. However, if the applicant was serving as a resident physician in a residency program accredited by the Accreditation Council on Graduate Medical Education (ACGME) of the American Medical Association or the Program and Trainee Review Council of the American Osteopathic Association in the United States within thirty (30) days of filing his or her application for an assistant physician license, the two- (2-) year time period shall not apply;