





TO: The Honorable the Members of the Board of Regents
FROM: Douglas E. Lentivech 
SUBJECT: Report of the Committee on the Professions Regarding
Licensing Petitions
DATE: January 30, 2020
AUTHORIZATION(S): 

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents approve the recommendations of the Committee on the Professions pertaining to licensing petitions and degree conferrals as listed on the attachment?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

This question will come before the Full Board at its February 11, 2020 meeting where it will be voted on and action taken.

Procedural History

Section 6506(5) of the Education Law and Section 24.7 of the Rules of the Board of Regents authorize the Regents to waive education, experience and examination requirements for a professional license as well as to confer the degree Doctor of Medicine.

Background Information

There are five licensing petitions for review and determination.

Related Regents Items

Not applicable.

Recommendation

It is recommended that the Regents approve the recommendations of the Committee on the Professions regarding the licensing petitions.

Timetable for Implementation

Approval of the Committee on the Professions' recommendations will be effective, February 11, 2020.

Cases Presented to Board of Regents on February 11, 2020

SUMMARY REPORT

PROFESSION	EDUCATION			EXAMINATION		Experience	Confer Degree Doctor of Medicine	Three-Year Limited License
	Pre- Professional	Professional	Post- Graduate	Proficiency	Licensing			
Certified Public Accountancy					20-01-07			
Physician Assistant					20-01-23			
Massage Therapy					20-01-27			
Dentistry	20-03-50							
Medicine					20-11-60			
OTHER:						Total for fiscal year to date: 184 Total for calendar year to date: 5		

Board of Regents: February 11, 2020

CERTIFIED PUBLIC ACCOUNTANCY

20-01-07

Joseph Green

Petition for: Acceptance of passing grades on the Uniform Certified Public Accountancy Examination.

Statement of Problem:

Mr. Green is an applicant for licensure in New York as a CPA and passed all four parts of the Uniform CPA Examination. He was a jurisdiction candidate in the State of Washington and is a licensed CPA in that State. Thus, the applicant would need to have his Examination scores transferred from the Washington Board of Accountancy to the New York Board for Public Accountancy. However, he exceeded the 18-month conditioning requirement by four months.

The applicant passed the Auditing and Attestation (AUD) section in November 2015 and had to pass the remaining sections of the Examination by June 30, 2017. After the conditioning period was set, he passed Business Environment and Concepts (BEC) in April 2016 on his third attempt and Regulation (REG) in January 2017 on his first attempt. For the last section, Financial Accounting and Reporting (FAR), he attempted, but failed a total of three times during the 18-month conditioning period. Mr. Green passed on his fourth attempt in October 2017, four months outside of the conditioning period.

The Washington Board of Accountancy confirmed that it provided an extension to Mr. Green to pass the Examination. An undue burden would be placed upon the candidate to re-test per New York's rules for the entire Examination, as now all sections of the Examination would be viewed as having expired.

Based on the confirmation by the Washington Board of Accountancy that it provided an extension to Mr. Green to pass all four sections of the Examination, the Executive Secretary of the State Board for Public Accountancy supports his petition to waive the 18-month requirement to pass all four parts of the Uniform CPA Examination.

APPLICABLE REQUIREMENTS:	QUALIFICATIONS:
Section 7404 of Education Law and Part 70 of the Commissioner's Regulations require:	
(1) A bachelor's or higher degree based on a program in accountancy.	Washington State University, Pullman, WA, Bachelor of Arts in Business Administration, May 10, 2014; University of Washington, Seattle, WA, Master of Professional Accounting, June 12, 2015.
(2) Passing scores on the Uniform CPA	(2)(a) November 2015: Auditing and

Examination.	<p>Attestation (passing score).</p> <p>(2)(b) January 2016: Business Environment and Concepts (failing score); April 2016 (passing score).</p> <p>(2)(c) January 2017: Regulation (passing score).</p> <p>(2)(d) July and December 2016 and April 2017: Financial Accounting and Reporting (failing scores); October 2017 (passing score).</p>
(3) One year of satisfactory experience.	(3)

RECOMMENDATION: The Committee on the Professions, in concurrence with the Executive Secretary of the State Board for Public Accountancy, recommends that the applicant's petition for acceptance of passing grades on the Uniform CPA Examination be accepted.

PHYSICIAN ASSISTANT

20-01-23

Isaiah Hammonds

New Hartford, New York

Petition for: Waiver of the examination requirement for licensure as a Physician Assistant.

Statement of Problem: Part §60.8(c) of the Commissioner's Regulations (C.R.) specifies that applicants for initial licensure are required to successfully pass an acceptable examination. The Department currently requires the passing of the Physician Assistant National Certifying Examination (PANCE) administered by the National Commission on Certification of Physician Assistants' (NCCPA). To be eligible for admission to the PANCE, the NCCPA requires that applicants have completed a Physician Assistant education program accredited by the Accreditation Review Commissioner on Education for the Physician Assistant (ARC-PA).

Dr. Isaiah Hammonds graduated from the Doctor of Medicine program at the American University of Antigua (AUA). As he did not graduate from a Physician Assistant program accredited by ARC-PA, he is currently not eligible for sit for the PANCE in accordance with the examination's admission requirements. However, Dr. Hammonds reports having completed the United States Medical Licensing Examination (USMLE), a three-step medical licensure examination.¹ Dr. Hammonds requests that the requirement for the PANCE be waived pursuant to E.L. §6506(5) and §24.7 of the Rules of the Board of Regents, based on his completion of the USMLE.

E.L. §6506(5) provides that in supervising the admission to and the practice of the professions, the Board of Regents may waive education, experience, and examination requirements for a professional license prescribed in the article relating to the profession, provided the Board of Regents shall be satisfied that the requirements of such article have been substantially met.

To determine if the USMLE substantially meets the PA examination requirement, the Department's Office of the Professions' Division of Professional Licensing Services' Professional Examinations Unit (PEU) conducted a review of the USMLE examination, as compared to the knowledge, skills and abilities tested in the entirely separate PA profession, to determine whether a waiver of the PANCE examination would be appropriate.

As both the USMLE and PANCE test vendors declined to provide non-publicly available information regarding the respective examinations, the PEU reviewed the publicly available blueprints showing what the examinations test. Based on this information, the PEU determined that the content domains tested by the USMLE are not equivalent to or substantially meet the content domains tested by the PANCE to assess basic competency for PA licensure purposes.

Specifically, for the USMLE to be deemed acceptable to the Department as a PA examination, it must be determined to adequately assess the entry level skills necessary for the practice of the PA profession. Examination validity, the degree to which an examination measures what it is supposed to measure, is one of the most important criteria for a

¹ The Department has received an unofficial copy of Dr. Hammond's exam scores for USMLE Step 1, Step 2CK and Step 2CS, but has been given inconsistent information as to whether Dr. Hammonds attempted or passed USMLE Step 3 and has not received those scores. Whether or not Dr. Hammonds has, in fact, passed Step 3 is not germane to the analysis of whether a waiver should issue on the grounds that USMLE substantially meets the examination requirements for licensure as a PA.

professional licensing examination. The PEU determined that the USMLE is insufficiently valid as a test of specific PA knowledge and skills needed in the practice of the profession.

For an examination program to have legal defensibility there must be evidence to support that sound, professionally recommended guidelines were followed throughout the design, development, and maintenance of the program. For professional licensing examinations, practice analyses should be conducted to investigate and confirm that the examination has a strong content validity (in this case, a high degree of “job relatedness”) and effectively tests the knowledge and skills demonstrated by a given profession.

The National Commission on Certification of Physician Assistants (NCCPA) has undertaken practice analyses and other studies to ensure that the NCCPA’s PANCE content blueprint accurately reflects current PA practice. The blueprint is based on a compilation of knowledge and skills that are representative of the actual clinical practice of PAs. Certified PAs are involved throughout the examination development process, beginning with the practice analysis surveys. In addition, they are involved in reviewing results of the practice analysis, writing questions that appear on the PANCE, reviewing examinations before they are administered, reviewing performance data for examination questions, and developing recommendations for the passing standard. Certified PAs work with NCCPA to review the content included on the PANCE to ensure it is relevant and current. The President and CEO of NCCPA has advised the Department that “[t]he construction of the exam and the scoring is, by design, keyed to determinations of what a new PA graduate should be expected to know.... PANCE serves the purpose of assessing whether an individual is ready to practice as an entry-level physician assistant. The PA profession provides clinical care to patients, as do physicians, but is based on a different professional and educational model.”

While many of the broad medical content categories included on the PANCE can be found on the USMLE, the USMLE does not present them within the context of the PA profession and specific PA job tasks. In addition, a portion of the PANCE covers topics related specifically to PA professional practice, which are not covered at all on the USMLE.

The Federation of State Medical Boards (FSMB) and the National Board of Medical Examiners (NBME) have not conducted practice analyses for the PA profession and make no claim to the validity of the USMLE as a test of basic competency of PA knowledge and skills. In fact, the Senior Vice President of Assessment for FSMB has advised the Department that “the blueprint does not take into account the competencies involved in other allied health professions, such as physician assistants, which may require knowledge of, and skill in, domains not tested on USMLE or in different proportions from those tested on USMLE.” FSMB and NBME have confirmed that the content expert group used for the USMLE standard setting does not include PA Content Experts. Nor does the group used to set the cut score on the USMLE include PAs. The USMLE pass/fail standard is based on a reference group of enrolled US/Canadian medical students, not PA students. The USMLE does not address the collaborative skills required in the practice of PAs, specifically the Physician/PA relationship from the PA perspective; professional and clinical limitations; PA communications and consultations with supervising physicians; and scope of practice for PAs. Topics related specifically to PA Professional practice are not covered on the USMLE.

In order to comply with best practices in the development of high-stakes licensing examinations, examination content should be based on data gathered through practice analysis studies and performance data on examination questions. For the PANCE, certified PAs are involved in these steps, as well as setting cut scores and developing other recommendations for determining passing standards. These tasks are performed within the context of the practice of PAs. The USMLE, as an examination designed and developed to assess the knowledge and

skill necessary for the separate and distinct profession of Physician makes no such claims and does not adequately assess the entry level skills necessary for the profession of PA.

Based on the PEU's analysis of available testing materials and the finding that the USMLE is not substantially equivalent to the PANCE for purposes of PA licensure, the Executive Secretary for the New York State Board for Medicine does not support Dr. Hammonds' petition for a waiver, and notes that consistent with longstanding Department policy, the USMLE has never been accepted as an examination for Physician Assistant licensure.

APPLICABLE REQUIREMENTS:	QUALIFICATIONS:
E.L. §6541 and Part 60 of the Commissioner's Regulations require:	
(1) An approved program for the training of physician assistants or the substantial equivalent, as determined by the Department, or an extensive health-oriented education and of appropriate experience and training	(1) See statement of problem
(2) Licensing examinations.	(2) USMLE
(3) Good moral character	(3)

RECOMMENDATION: The Committee on the Professions, in concurrence with the Executive Secretary of the State Board for Medicine, recommends that the applicant's petition for a waiver of the required PANCE examination based on the completion of the USMLE, be denied.

MESSAGE THERAPY

20-01-27

Pamella O'Dea
Tillson, New York

Petition for: Endorsement of a foreign license or waiver of the examination requirement for licensure as a Massage Therapist.

Statement of Problem: Applicants for initial licensure in Massage Therapy in New York State are required to pass the New York State Massage Therapy Examination administered by SCANTRON or an examination administered by another jurisdiction acceptable to the Department for purposes of licensure by endorsement by New York State. An applicant for licensure, Pamella O'Dea, has not passed the New York State Massage Therapy Examination or another examination acceptable to the Department that is used for licensure by endorsement.

Applicants who have not attempted and failed the New York State Massage Therapy Examination may be eligible for consideration of endorsement pursuant to Part §78.4 of the Commissioner's Regulations (C.R.) provided that, among other things: they have been licensed by another jurisdiction in good standing for at least two years, have met the 1000 clock hour education requirement and have met a written examination acceptable to the Department for licensure in the jurisdiction. The two years of experience in the jurisdiction while licensed should consist of an average of 12 hours a week performing massage therapy for 52 weeks a year attested by employers, supervisors, or similar persons.

Ms. O'Dea claims licensure as a Massage Therapist in the province of Ontario, Canada. To meet the requirements of §78.4, the license must be active and in good standing, the Department must determine that the Ontario licensure examination is satisfactory, and the applicant must have no fewer than two years of acceptable post-license professional experience in the jurisdiction where the applicant is licensed and claiming the experience. Ms. O'Dea's province of Ontario, Canada license is not currently active; it expired in 2009. The Department staff have not identified any acceptable experience under this license, as the experience submitted was not gained when she was licensed but was gained after her license expired in 2009. In addition, the experience was reported to be one week a year, not 52 weeks per year. Although the licensing College in Ontario submitted information that Ms. O'Dea was licensed by certification examinations, the Department has not reviewed the examinations as they have not been sent securely to the Department for review. Ms. O'Dea qualified to sit for NYS licensing exam but did not sit for the August 2019 exam.

The applicant further claims licensure in the province of Nova Scotia, Canada and the city of San Francisco, California. The Department determined that Ms. O'Dea does not hold a license in the province of Nova Scotia, Canada. The documentation submitted by the Massage Therapists Association of Nova Scotia indicates that Massage Therapy is not a regulated health profession in the province of Nova Scotia. Ms. O'Dea is a member of the Massage Therapists Association of Nova Scotia. Her license in the city of San Francisco, California is a local license issued by the city only; it is not a state license issued by the state of California. Therefore, neither Ms. O'Dea's membership in the Massage Therapists Association of Nova Scotia nor her city of San Francisco license are eligible for endorsement.

Ms. O'Dea requests that the totality of her licensure and experience be considered as fulfilling the requirements for endorsement. She reports completing a two-year massage therapy

education program of 2200 hours, which are more hours than are required for NYS licensure. She also notes excess hours of oriental training and supervised clinical hours. Ms. O’Dea further cites her 27 years of experience doing massage full time and teaching part time for 16 years. Under the endorsement pathway requirements as outlined in regulation, the Executive Secretary of the State Board for Massage Therapy asserts there is no regulatory basis to endorse any of the experience in Ontario, Canada that Ms. O’Dea claims, licensure by a city in California, or recognition by a private professional association.

Ms. O’Dea is petitioning the Board of Regents for endorsement of her province of Ontario, Canada license. Alternatively, Ms. O’Dea has expressed an interest in seeking a waiver of the examination requirement pursuant to Education Law (E.L.) §6506(5).

Should the COP disagree with the Massage Therapy Board’s recommendation and accept the applicant’s petition for endorsement, then consideration of the following waiver petition is not relevant. However, should the COP agree with the Board’s recommendation for denial of endorsement, the Board of Regents may consider a waiver of the examination requirement for licensure, pursuant to E.L. §6506(5). Education Law (E.L.) §6506(5) provides that in supervising the admission to and the practice of the professions, the Board of Regents may waive education, experience, and examination requirements for a professional license prescribed in the article relating to the profession, provided the Board of Regents shall be satisfied that the requirements of such article have been substantially met.

The Executive Secretary of the State Board for Massage Therapy asserts that Ms. O’Dea does not meet the endorsement requirements for licensure as a Massage Therapist and has not established an acceptable equivalent licensure examination necessary for a waiver of the examination requirement. As such, the Executive Secretary of the State Board for Massage Therapy does not support either Ms. O’Dea’s petition for endorsement or a waiver of the examination requirement pursuant to E.L. §6506.

APPLICABLE REQUIREMENTS:	QUALIFICATIONS:
E.L. §7804 and Part 78 of the Commissioner’s Regulations require:	
(1) Graduation from a school of massage therapy with a program registered by the department, or its substantial equivalent in both subject matter and extent of training, including at least 1,000 clock hours of classroom instruction.	(1) Sutherland-Chan School and Teaching Clinic, Toronto, Ontario, Canada, Diploma, June 1991.
(2) A current certificate in cardiopulmonary resuscitation (CPR).	(2) St. John Ambulance Saint-Jean, Number 1495789039, expires August 2020.
(3) Licensing examination.	(3) See statement of problem.
(4) Good standing as a licensee in each jurisdiction in which the applicant is licensed to practice massage therapy.	(4) See statement of problem.

(5) At least two years of professional post-licensure experience in massage therapy in the jurisdiction where licensed, acceptable to the Department.	(5) See statement of problem.
(6) United States citizen or alien lawfully admitted for permanent resident status in the United States.	(6) United States citizen.
(7) Evidence of good moral character.	(7) Good moral character.

RECOMMENDATION: The Committee on the Professions (COP), in concurrence with the Executive Secretary of the State Board for Massage Therapy, recommends that the applicant's petition to either endorse her out-of-state license, or waive the examination requirement pursuant to Education Law §6506(5), be denied. While the Committee recognizes that the applicant has asserted extensive experience practicing massage therapy, the experience did not occur in a jurisdiction that provides oversight and regulation of the practice of the profession comparable to that required by New York State, and further notes that experience is not typically a substitute for an acceptable licensure examination. Since the applicant's education has been accepted as meeting education requirements, the COP recommends attempting and passing the NYS Massage Therapy exam as the final requirement for licensure.

DENTISTRY

20-03-50

Sylvana Chimenti
Bellmore, NY

(Centro Universitario Fluminense – UNIFLU, Campas, Brazil, Titulo de Cirurgiao Dentista, July 1999)

Petition for: Acceptance of education.

Statement of Problem: Regulations of the Commissioner require an applicant for licensure in dentistry to complete an acceptable preprofessional education program of at least two years in length (including courses in general chemistry, organic chemistry, biology or zoology, and physics) and an acceptable professional dental education program of at least four years in length, for a total of six years of preprofessional and professional education.

Dr. Chimenti completed a four and one-half year professional dental education program at Centro Universitario Fluminense – UNIFLU in Campas, Brazil. Therefore, she lacks one and one-half years of education which is in the preprofessional area.

However, Dr. Chimenti also completed an Associate in Applied Science in Dental Hygiene from September 2009 to May 2011 at New York University. The Executive Secretary for the State Board for Dentistry recommends that these studies be considered to fulfill the one and one-half years of required preprofessional education.

APPLICABLE REQUIREMENTS:	QUALIFICATIONS:
Section 61 of the Regulations of the Commissioner of Education and §24.3(a)(2) of the Rules of the Board of Regents	
(1) Not less than 60 semester hours of preprofessional education including courses in general chemistry, organic chemistry, biology or zoology, and physics.	(1)(a) Associate in Applied Science in Dental Hygiene from September 2009 to May 2011 at New York University, New York, New York. (1)(b) Included in dental school program below
(2) Four academic years of dental education culminating in a degree in an acceptable dental school.	(2) Four and one-half years of acceptable professional dental education culminating in a Titulo de Cirurgiao Dentista, Centro Universitario Fluminense - UNIFLU, Campas, Brazil, July 1999.
(3) Two academic years of study in an accredited dental school program culminating in certification that the applicant has achieved the level of knowledge and clinical proficiency expected of a graduate of that school.	(3) Advanced education in dentistry culminating in a Doctor of Dental Medicine at University of Illinois at Chicago, Chicago, Illinois from May 2015 to May 2017.
(4) Satisfactory scores on Parts I and II of the National Dental Board Examinations.	(4)

(5) Acceptable clinically-based dental residency program of at least one year's duration.	(5)
(6) United States citizen or alien lawfully admitted for permanent residence in the United States.	(6)
(7) Evidence of the required course in the identification and reporting of child abuse and maltreatment.	(7)

GOAL OF DISCUSSION: The Committee on the Professions should discuss the case and provide their recommendation on whether the Board of Regents should accept the applicant's petition for postgraduate study to be considered in lieu of two years of preprofessional education.

MEDICINE

20-11-60

Paulo Selber
New York, New York

(Pontificia Universidade Catolica De Campinas, Campinas, Brazil, Physician, January 1988)

Petition for: Endorsement of his medical license from Brazil.

Statement of Problem: Commissioner's Regulations allow endorsement of an applicant's license from another jurisdiction if appropriate requirements are met, and the applicant has not failed any part of New York State's licensing examination. A license granted in a foreign country can be endorsed if licensure in that country is regulated by an organization designated as responsible for quality assurance and acceptable to the Board of Regents. Additionally, the applicant must satisfactorily demonstrate completion of an acceptable proficiency examination, clinical competency examination, three years of American Council on Graduate Medical Education (ACGME) accredited postgraduate training or the equivalent, and five years of satisfactory professional experience.

Representatives from the State Board for Medicine have reviewed the documentation submitted in support of Dr. Selber's application. The Executive Secretary of the State Board for Medicine recommends that Dr. Selber's Brazilian, United States and Australian Post Graduate Training between January 1991 and June 2002 be accepted as the substantial equivalent of the three years of ACGME-accredited postgraduate training required for licensure.

Commissioner's Regulations allow the Board of Regents to accept appropriate foreign medical licenses and diplomate certificates to fulfill the licensure, proficiency, and clinical competency requirements for licensure by endorsement. Dr. Selber obtained his medical license in Brazil in November 1988. His Brazilian license is active and in good standing. Dr. Selber holds both Membership of the Brazilian Society of Orthopedics and Traumatology and Fellowship of the Royal Australasian College of Surgeons, Specialty of Orthopedic Surgery issued in February 1994 and June 2003, respectively.

The Executive Secretary of the State Board for Medicine recommends that Dr. Selber's Brazilian license be endorsed, and his Membership and Fellowship be accepted to fulfill the proficiency examination and the clinical competency requirements for endorsement.

APPLICABLE REQUIREMENTS:	QUALIFICATIONS:
Sections 60.1 and 60.5 of the Commissioner's Regulations require:	
(1) Six years of postsecondary education, including at least 32 months of medical education.	(1) Pontificia Universidade Catolica De Campinas, Campinas, Brazil, Physician, January 1988
(2) Proficiency examination.	(2) Fellowship of the Royal Australasian College of Surgeons, Specialty of Orthopaedic Surgery, Issued June 2003
(3) Three years of approved postgraduate hospital training.	(3) (a) Residency in Orthopaedics at The Paulo Sacramento and Instituto Jundiaense of Orthopaedics and Trauma in Sao Paulo, Brazil from January 1991 through December 1994.

	(b) Pediatric Orthopedic Fellowship at Children's Memorial Hospital in Chicago, Illinois from January 1995 to June 1995. (c) Fellowship in Orthopedic Trauma at the Royal Children's Hospital in Melbourne, Australia from May 2000 through June 2002.
(4) Appropriate medical license or certificate.	(4) Brazilian license, Conselho Federal e Regional de medicina, License # 61.436, Issued November 1988.
(5) Acceptable scores on a clinical competency examination acceptable to the Department.	(5) Membership of the Brazilian Society of Orthopedics and Traumatology, Issued February 1994.
(6) Not less than five years of satisfactory professional experience.	(6) Over seven years of satisfactory professional experience.
(7) United States citizen or alien lawfully admitted for permanent resident status in the United States.	(7)
(8) Evidence of good moral character.	(8)
(9) Course in the identification of child abuse and maltreatment.	(9)

RECOMMENDATION: The Committee on the Professions, in concurrence with the Executive Secretary of the State Board for Medicine, recommends that the applicant's qualifications be accepted to fulfill the requirements for licensure by endorsement.