



TO: The Honorable the Members of the Board of Regents

FROM: Sarah S. Benson *Sarah S. Benson*

SUBJECT: Proposed Technical Amendment to Section 60.2 of the Regulations of the Commissioner of Education Relating to the Term Limits for Members of the Advisory Committee on Long-Term Clinical Clerkships

DATE: September 2, 2021

AUTHORIZATION(S): *Jan M. P.* *Bellotti*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed technical amendment of section 60.2 of the Regulations of the Commissioner of Education relating to the Term Limits for Members of the Advisory Committee on Long-Term Clinical Clerkships?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as an emergency rule at the September 2021 meeting. A copy of the proposed amendment is included (Attachment A) and a statement of facts and circumstances justifying emergency action is included (Attachment B).

Procedural History

The proposed amendment was presented to the Full Board for adoption as an emergency rule at the July 2021 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on July 28, 2021 for a 60-day public comment period. Because the July 2021 emergency action will expire on October 10, 2021, a second emergency action is necessary to ensure the emergency rule remains continuously in effect until it can be permanently adopted at the October 2021 Regents meeting. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

At its June 2020 Regents meeting, the Board of Regents voted to adopt amendments to section 60.2 of the Commissioner's regulations. Section 60.2 provided that the members of the Advisory Committee on Long-Term Clinical Clerkships (Committee) are permitted to serve no more than two terms in succession, "except that a member may serve a succeeding third term if at least one of the preceding two terms was less than two years in duration." The June amendment removed such provision prohibiting members of the Committee from serving more than two terms in succession.

Due to a clerical error, the June 2020 amendments to the Commissioner's regulations filed with the Department of State inadvertently omitted other language regarding the staggering of terms of members of the committee that is unrelated to the above amendment and was not intended to be omitted. Therefore, the proposed amendment is necessary to resolve this clerical error by reinserting the unintentionally omitted language.

Related Regents Items

June 2020: [Proposed Amendment to Section 60.2 of the Regulations of the Commissioner of Education Relating to the Term Limits for Members of the Advisory Committee on Long-Term Clinical Clerkships](https://www.regents.nysed.gov/common/regents/files/620brca9.pdf)
(<https://www.regents.nysed.gov/common/regents/files/620brca9.pdf>)

July 2021: [Proposed Technical Amendment to Section 60.2 of the Regulations of the Commissioner of Education Relating to the Term Limits for Members of the Advisory Committee on Long-Term Clinical Clerkships](https://www.regents.nysed.gov/common/regents/files/721brca16.pdf)
(<https://www.regents.nysed.gov/common/regents/files/721brca16.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 60.2 of the Regulations of the Commissioner of Education be amended, as submitted, effective October 11, 2021, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to immediately make a technical correction to ensure that the amendments to the Commissioner's regulations adopted at the June 2020 meeting are properly administered pursuant to the policies established by the Board of Regents.

Timetable for Implementation

It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the October 2021 Regents meeting, after publication of the proposed rule in the State Register and expiration of the 60-day public comment period

required under the State Administrative Procedure Act. If adopted at the October meeting, the proposed rule will become effective as a permanent rule on November 3, 2021.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 605, 6501, 6504, 6506, 6507, 6508, 6524, 6525, 6526, 6541, and 6548 of the Education Law.

1. Subdivision (f) of section 60.2 of the Regulations of the Commissioner of Education is amended to read as follows:

(f) Establishment of Advisory Committee on Long-Term Clinical Clerkships.

(1) ...

(2) ...

(3) Terms of members. The terms of the members of the first committee appointed pursuant to subparagraphs (2)(v) through (viii) of this subdivision shall be so arranged that the terms of two members shall expire on June 30, 2013, the terms of two on June 30, 2014, and the terms of two on June 30, 2015, and the terms of two on June 30, 2016. Thereafter, all members appointed pursuant to subparagraphs (2)(v) through (viii) of this subdivision shall be appointed to serve a term of four years each, beginning with the first day of July next following the ending of the term to which each, respectively, is to succeed, except that an appointment to fill a vacancy created other than by the expiration of a term shall be for the unexpired term.

(4) Duties of the Advisory Committee on Long-Term Clinical Clerkships. The committee shall gather and study existing research on relevant issues, such as health workforce demands and trends, health workforce diversity and Board of Regents policy determinations. Based on such research and policy determinations, the committee shall:

(i) ...

(ii) ...

(iii) ...

(iv) ...

[(4)] (5) After consideration of the committee's recommendations, the Department shall make a recommendation to the Board of Regents as to whether an application for authorization to place students in a long-term clinical clerkship should be approved. Upon approval by the Board of Regents, the medical school shall be authorized to place students in long-term clinical clerkships in New York State pursuant to standards and/or limitations prescribed by the Board of Regents.

[(5)] (6) Until the Board of Regents approves the new standards and processes for approval for the placement of students in international medical schools in long-term clinical clerkships, schools currently approved for such purpose will continue to be subject to the current standards and processes prescribed in subdivision (c) of this section.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH
NECESSITATE EMERGENCY ACTION

At its June 2020 Regents meeting, the Board of Regents voted to adopt amendments to section 60.2 of the Commissioner's regulations. Section 60.2 provided that the members of the Advisory Committee on Long-Term Clinical Clerkships (Committee) are permitted to serve no more than two terms in succession, "except that a member may serve a succeeding third term if at least one of the preceding two terms was less than two years in duration." The June amendment removed such provision prohibiting members of the Committee from serving more than two terms in succession.

Due to a clerical error, the June 2020 amendments to the Commissioner's regulations filed with the Department of State inadvertently omitted other language regarding the staggering of terms of members of the committee that is unrelated to the above amendment and was not intended to be omitted. Therefore, the proposed necessary is necessary to resolve this clerical error by reinserting the unintentionally omitted language.

The proposed amendment was presented to the Full Board for adoption at the July 2021 meeting of the Board of Regents, effective July 13, 2021. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the October 2021 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earlier effective date of the proposed rule, if adopted at the October

2021 meeting, would be November 3, 2021 the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on October 10, 2021. Therefore, a second emergency action is necessary at the September 2021 meeting for the preservation of the general welfare in order to immediately make a technical correction to ensure that the amendments to the Commissioner's regulations adopted at the April 2021 meeting are properly administered pursuant to the policies established by the Board of Regents and to ensure that the emergency action taken at the July 2021 meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the October 2021 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making.