duration of an initial license and the term of renewal of each gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2-A and directs that such initial license term shall be no less than 10 years but no more than 30 years based on the proposed total investment of the applicant's project.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal to have the initial license term and term of renewal of a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2-A determined by the Commission and for the initial license to be between 10 and 30 years, inclusive, based on the proposed total investment of the applicant's project.

3. NEEDS AND BENEFITS: The proposed rules implement the above-listed statutory directive for the Commission to determine the initial license duration of a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2-A according to the statutory criterion of the applicant's proposed total investment, within the statute's prescribed license-term parameters.

4. COSTS:

(a) Costs to regulated parties for the implementation and continuing compliance with the rule: No additional operating costs are anticipated as a result of the proposed rule.

(b) Costs to the regulating agency, the State, and local governments for the implementation and continued administration of the rule: No additional operating costs are anticipated as a result of the proposed rule.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: The cost estimates are based on the Commission's experience with regulating gaming activities within the State.

5. LOCAL GOVERNMENT MANDATES: None. The Commission is the only governmental entity authorized to regulate commercial casino table games.

6. PAPERWORK: The proposed rule imposes no changes in paperwork requirements.

7. DUPLICATION: The proposed rules do not duplicate any existing State or federal requirements of the same or similar subject matter.

8. ALTERNATIVES: The Commission considered different levels of proposed total investment as thresholds for different license durations. The four current gaming facility licensees proposed individual project total investments of up to approximately $854 million when licensed. Each of the applicants for an additional casino license, in the current Title 2-A process, proposes total investments substantially exceeding the capital investments promised by the current upstate licensees. Accordingly, the Commission determined that an initial license period for the Title 2-A applicants should be longer than the initial 10-year license periods applicable to the current Title 2 gaming facility licensees. There are no comparable domestic casino licensing regimes, in which a limited number of licenses are available and license duration depends on proposed total investment. The most established domestic commercial casino jurisdictions—Nevada and New Jersey—do not limit the number of licenses. Nevada issues annual licenses and New Jersey issues licenses for five years. Many U.S. states issue licenses for fewer than 10 years, below New York's statutory minimum, yet those jurisdictions do not require comparable minimum capital investments that New York is requiring. Arkansas and Virginia license commercial casinos for 10 years. Kansas, Maryland and Massachusetts issue licenses for 15 years. Nebraska licenses operators for 20 years (and facilities annually) and Louisiana licenses casinos for 20 years. Staff is unaware of any other jurisdiction in the United States that has awarded a casino license for more than a 20-year term. In the international market, projects with substantial capital investment have been undertaken in the Asian market. Macao issued 20-year licenses initially, which has now been reduced to 10 years. Japan has issued a 10-year license for one large, integrated resort and plans to issue 10-year licenses for two more. Singapore has a duopoly for large, integrated casino resorts that promised multi-billion-dollar investments, with initial exclusivity granted for a 10-year period and subsequently extended with commitments to further increase investments in non-gaming attractions. The Singapore casino licenses, within this exclusivity structure, are granted for two- to -three-year periods. With that backdrop and the New York statutory language directing that the length of a license should be based on proposed total investment, the Commission considered a variety of tiers of license durations, with longer duration requiring more substantial capital investment. The 10-year license term is proposed for proposed total investments of less than $1.5 billion, consistent with the largest proposed total investment for the largest Title 2 Upstate casino and consistent with the statute's shortest potential initial license duration. The next tier is a proposed 15-year license duration, for larger proposed total investments of up to $5 billion. The third tier is a proposed 20-year license duration, for even larger proposed total investments of up to $10 billion. All of the current applicants would fall into either the 15-year or 20-year categories. The 20-year category would recognize the substantial nature of increased proposed total investment for an integrated resort on scales consistent with the largest international integrated resort developments. A fourth-tier, for potentially even larger proposed total investment, would be consistent with the longest initial license period the statute envisions and would be reserved for the possibility that the current RFA process results in fewer than the maximum three additional licenses, and some additional future process is developed to consider the award of casino licenses up to the maximum of seven authorized in the State Constitution. To accommodate that possibility, the proposal also sets a license duration tier pegged to proposed capital investment beyond any proposed by current applicants, in the event some future applicant may propose such a level of investment.

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with these rules upon publication of the Notice of Adoption in the State Register.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed rules changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rule would establish criteria for the duration of commercial casino licenses awarded pursuant to Title 2-A of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law. These potential commercial casino licensees are large businesses.

The proposed rules will not impose any adverse economic impacts or reporting, recordkeeping or other compliance requirements on small businesses, local governments, rural areas or employment opportunities.

Department of Health

NOTICE OF ADOPTION

12-Week Rule for Foreign Medical School Graduates and Limited Permit Allowances

I.D. No. HLT-16-25-00002-A
Filing No. 835
Filing Date: 2025-09-19
Effective Date: 2025-10-08

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 405.4 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2803

Subject: 12-Week Rule for Foreign Medical School Graduates and Limited Permit Allowances.

Purpose: To allow more providers to meet the "12-week" exception to graduate medical education that occurs outside of the U.S.

Text of final rule: Subparagraph (ii) of paragraph (1) of subdivision (f) of section 405.4 is amended to read as follows:

(ii) [except for individuals eligible for licensure under section 6528 of the State Education Law,] a graduate of a foreign medical school who enrolled in such medical school after October 1, 1983 shall have completed the clinical component of a program of medical education which:

(a) included no more than 12 weeks of clinical clerkships in a country other than the country in which the medical school is located; or

(b) included clinical clerkships of greater than 12 weeks in a country other than the country in which the medical school is located [if], *provided:*

(1) the clinical clerkships were offered by a medical school approved by the State Education Department for the purposes of clinical clerkships; *or*

(2) the individual subsequently completed a post-graduate training program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and the individual is eligible to complete additional training in a postgraduate fellowship program.

Paragraph (2) of subdivision (g) of Section 405.4 is amended to read as follows:

(2)*(i)* physicians who possess limited permits to practice medicine issued by the New York State Education Department pursuant to section

6525 of the State Education Law if such physicians are under the supervision of a physician licensed and currently registered to practice medicine in the State of New York, and if the physicians possessing limited permits are:

[(i)]*(a)* graduates of a medical school [offering a medical program accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, or] registered with the State Education Department or accredited by an accrediting organization acceptable to the State Education Department, and have satisfactorily completed one year of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or their predecessors or successors [or an equivalent accrediting agency acceptable to the State Education Department]; or

[(ii)]*(b)* graduates of a foreign medical school*, defined as those schools which are not accredited or registered by the State Education Department pursuant to clause (a) of this subparagraph,* and have satisfactorily completed three years of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education [or], the American Osteopathic Association, or the Committee on Accreditation of Canadian Medical Schools, or their predecessors or successors [or an equivalent accrediting agency acceptable to the State Education Department; or]*;*

[(iii) graduates of a foreign medical school who have satisfactorily completed three years in a postgraduate training program and who are receiving advanced training as part of an official exchange visitor program approved by the United States Information Agency and the Educational Commission for Foreign Medical Graduates (ECFMG);]

(ii) if the physician possessing the limited permit has not completed a postgraduate training program of a satisfactory length or accreditation, as set forth in subparagraph (i) of this paragraph, but such physician will be a member of the workforce of a public hospital licensed under article 28 of the Public Health Law, such physician shall be permitted to provide patient care services within such hospital. Provided, however, that such limited permit holder must be directly supervised by a physician licensed and currently registered to practice medicine in the State of New York, who is credentialed by the hospital in the field in which the limited permit holder is practicing, and who is responsible for monitoring and supervising the limited permit holder in the same manner as required for supervision and monitoring of postgraduate trainees pursuant to paragraph (3) of subdivision (f) of this section. For the purposes of this subdivision, a public hospital shall mean a general hospital operated by a county, municipality, or public benefit corporation;

Final rule as compared with last published rule: Nonsubstantial changes were made in section 405.4(g)(2)(ii).

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Revised Regulatory Impact Statement

Statutory Authority:

Public Health Law (PHL) section 2803 authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner of Health (Commissioner), to implement the purposes and provisions of PHL Article 28 and to establish minimum standards governing the operation of health care facilities.

Legislative Objectives:

The legislative objectives of PHL Article 28 include the protection of the health of the residents of the State by promoting the efficient provision and proper utilization of high quality health services at a reasonable cost.

Needs and Benefits:

Needs and Benefits of Proposed Amendments to Section 405.4(f):

Under 10 NYCRR section 405.4(f), a post-graduate trainee (intern or resident) may practice medicine in a hospital under licensing exemptions set forth in Education Law section 6526. 10 NYCRR section 405.4(f)(1)(ii)(b) contains special requirements for graduates of foreign medical schools to engage in such a post-graduate training program, including setting forth the "12-week rule." Specifically, under this provision, if the graduate of the foreign medical school had a clinical clerkship of greater than 12 weeks in a country other than the country where their medical school was located, then the clinical clerkship must have been in a "a medical school approved by the State Education Department for the purposes of clinical clerkships."

There are currently only 17 international medical schools approved by the State Education Department (SED) "for the purposes of clinical clerkships." If a medical school is not one of these 17 schools approved by SED for the purposes of clinical clerkships, and a graduate of that medical school received more than 12 weeks of clerkship education in another country to complete the requirements for the applicant's medical education degree, that graduate is barred from enrolling in any post-graduate training program that includes providing patient care services in a New York teaching hospital.

The proposed amendment to section 405.4(f)(1)(ii)(b) would allow individuals who subsequently completed a post-graduate training program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and who is eligible to complete additional training in a postgraduate fellowship program, to meet the "12-week" exception to graduate medical education that occurs outside of the US. Considering severe physician staffing shortages throughout the State, this proposed revision is necessary to expand the number of sufficiently educated and trained physicians who can practice in post-graduate training programs in New York State hospitals.

Needs and Benefits of Proposed Amendments to Section 405.4(g):

10 NYCRR section 405.4(g)(2) allows an unlicensed physician to provide medical services in a general hospital under a limited permit to practice medicine, issued by SED pursuant to Education Law section 6525 if SED determines that the applicant meets criteria for issuance of a limited permit and appropriate levels of supervision and oversight are in place.

Section 405.4(g)(2) requires additional years of post-graduate training, beyond what is required for a limited permit under Education Law section 6525, in order for a holder of an SED-issued "limited permit" to provide care in a "general hospital," with the number of years of post-graduate training dependent on whether the limited permit holder graduated from a foreign or domestic medical school. Public Health Law section 2801(10) defines "general hospital" as a facility that provides medical and surgical services primarily to in-patients under 24-hour supervision of a physician. The term "general hospital" does not include a "residential health care facility, public health center, diagnostic center, treatment center, out-patient lodge, dispensary and laboratory or central service facility serving more than one institution."

Currently, section 405.4(g)(2) imposes additional years of training for limited permit holders, specifically one year for domestic medical graduates and three years for international (foreign) medical graduates, as a condition of working in a New York State hospital. This requirement was originally intended to ensure that international students' educations were equivalent to those of physicians educated in the United States. As a result, hospitals hiring doctors to meet patient needs often must turn away otherwise qualified applicants to maintain compliance with the regulation. These candidates, if unable to work in New York State hospitals, may seek employment in other states or in other types of health care settings where the extra years of experience are not required.

SED already considers training and experience before approving and issuing limited permits; however, SED does not screen candidates for their eligibility to work in hospitals. In addition, limited permit holders working in other settings in New York State, such as nursing homes and psychiatric hospitals, are not required to have these additional years of training. As such, there is inconsistency in the standards required of limited permit holders with equivalent background and training, making limited permit holders less likely to be to be utilized in hospitals.

The proposed regulation, through the addition of new subparagraph (ii), would eliminate the additional years of post-graduate training required for limited permittees if the limited permit holder would be a member of the workforce of a public hospital—defined in the regulation as a general hospital operated by a county, municipality, or public benefit corporation—and provided that the limited permit holder would be subject to the same supervision required of a medical resident. Given the shortage of licensed physicians to cover vital hospital services, this proposed amendment will eliminate a barrier to limited permit holders practicing in public hospitals, which serve a critical portion of New York's patient population.

Overall, the Department of Health believes that amending both of these regulations is the most effective means to ease physician staffing shortages in hospitals, with guardrails to ensure that physicians educated outside of the US still meet an appropriate education and oversight bar. SED has reviewed and approved the proposed amendment, and they have support from key industry stakeholders. Finally, since all limited permit holders are subject to supervision and oversight by a licensed physician, their practice within the hospital will be monitored to help ensure the highest standards of patient care are met.

Costs:

Costs to Private Regulated Parties:

This proposal will not result in increased costs to regulated parties.

Costs to Local Government:

This regulation amendment will not impact local governments unless they operate a general hospital. In any event, this proposal will not increase costs for local governments. They are expected to help hospitals, including those operated by a local government, by alleviating physician staffing shortages.

Costs to the Department of Health:

The proposed regulatory changes will not result in any additional operational costs to the Department of Health.

Costs to Other State Agencies:

The proposed regulatory changes will not result in any additional costs to other State agencies.

Local Government Mandates:

The proposed regulatory changes will not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

The proposed regulatory changes will not create any additional paperwork.

Duplication:

There are no relevant State regulations which duplicate, overlap or conflict with the proposed regulatory changes.

Alternatives:

The alternative would be to take no action and have hospitals continue to screen limited permit holders for additional years of training as a condition of employment. This is not a viable option, however, as taking no action would only exacerbate the current physician staffing shortage.

Federal Standards:

The proposed regulatory changes do not duplicate or conflict with any federal regulations.

Compliance Schedule:

The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

Revised Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2030, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department received comments from an association representing hospitals and an association representing international medical graduates (IMGs). These comments, along with the Department's responses, are summarized below.

Comment: An association representing hospitals supports the regulation. This commenter also proposed that the newly added subparagraph (ii) of 10 NYCRR § 405.4(g)(2) be amended to authorize limited permit holders to provide patient care in all general hospitals, not just public hospitals.

Response: Limited permit holders may work in any general hospital if they have completed a postgraduate training program of a satisfactory length and accreditation under 10 NYCRR § 405.4(g)(2)(i). This regulation's newly added subparagraph (ii) of 10 NYCRR § 405.4(g)(2) expands the ability of limited permit holders to work in general hospitals by also allowing limited permit holders who have not completed such a postgraduate training program to work in a public hospital. The Department deliberately expanded the ability of limited permit holders to work in general hospitals to public hospitals, which care for New York's most at-risk population. No changes have been made to the regulation in response to this comment.

Comment: An association representing international medical graduates (IMGs) supports the regulation. The commenter also believes the duration of limited permits and policy for renewal is unclear and recommends the establishment of a more structured, time-bound renewal policy to facilitate matching IMGs with residency programs while preventing prolonged reliance on limited permits.

Response: This commenter's recommendation is outside the scope of this regulation. The recommendation would be better addressed to the State Education Department. No changes have been made to the regulation in response this comment.

Comment: A hospital asked whether a physician employed by the public hospital under the new 10 NYCRR § 405.4(g)(2)(ii) must be a W-2 employee.

Response: No. To clarify the Department's intention, in the final regulation the words "directly employed by" have been changed to "a member of the workforce of." The term "workforce" is defined in 45 CFR § 160.103 (HIPAA).

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Ionizing Radiation

I.D. No. HLT-40-25-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Repeal of Part 16; addition of new Part 16 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 225

Subject: Ionizing Radiation.

Purpose: Compatibility with federal standards and modernization to reflect current technology.

Substance of proposed rule (Full text is posted at the following State website: https://regs.health.ny.gov/regulations/proposed-rule-making): The regulatory proposal would repeal and replace all sections within Part 16 of Title 10 of the New York Codes, Rules and Regulations (NYCRR), as described in more detail below.

Section 16.1 is updated to correct references to other agencies and persons exempted under Title 10 of the Code of Federal Regulations (CFR) Part 30.

Section 16.2 is updated to include numerous new definitions used in 10 CFR Part 30, as well as other definitions related to new technologies, updated units and clarification of terms.

Section 16.4 updates appendix references, including changing the reference from 10 NYCRR Part 16 to application sections within 10 CFR Part 30.

Section 16.5 updates responsibilities for radiation safety to include acceptance testing and annual program review requirements.

Section 16.6 makes updates to the requirements for evaluating prior occupational doses and removes provisions on planned special exposures. The term "eye dose" is replaced by "lens dose."

Section 16.7 updates dose limits for members of the public to reflect current Title 10 CFR references and outdated language is removed or updated.

Section 16.10 is amended to update inspection schedules, add Certified Radiation Equipment Safety Officer (CRESO) program requirements, and update requirements for surveys and testing of sealed sources.

Section 16.11 is updated to reflect changes in terminology for personnel monitoring and to clarify dose limits.

Sections 16.12, 16.13 and 16.15 are all updated to reflect 10 CFR Part 30 references instead of references to 10 NYCRR Part 16, as well as to clarify the actual language and phrasing used within these sections.

Section 16.14 is updated to require recording of high patient doses from fluoroscopy and notification of referring physician and instructions to patient.

Sections 16.16 and 16.17 are updated for compatibility with 10 CFR Part 30 requirements.

Section 16.19, concerning limitations on application of radiation to humans, is updated to reflect changes in the use of radioactive materials especially therapeutic sources.

Section 16.22 is updated to remove the requirement for mammography screening programs to teach breast self-examination.

Section 16.23 is updated to require quality assurance (QA) programs for advanced modality dental and podiatry, to require radiation safety policies regarding patient fluoroscopy doses and neonatal imaging, to update specifications for modern imaging modalities, and to update breast imaging QA requirements.

Section 16.24 is updated to reflect updates to QA requirements and verification of radiation therapy treatments.

Section 16.26 is updated to incorporate by reference the current federal regulation from the U.S. Nuclear Regulatory Commission (NRC).

Sections 16.40 and16.41 are updated to reflect new fee schedules and to incorporate NYS Department of Labor (DOL) fee categories.

Section 16.50 is updated to correctly reference the New York City Department of Health and Mental Hygiene (NYC DOHMH), change registration periods to allow more flexibility, and include commercial requirements previously listed within DOL regulations.

Section 16.51 is updated to include several items in the prohibited uses of radiation equipment, and half-value layer tables were updated to be current with federal manufacturing requirements (21 CFR Part 1020) for equipment listed in sections 16.52 through 16.70 of Title 10 of the NYCRR.

Sections 16.52, 16.54 and 16.55 are updated to include specifications for hand-held units and Cone Beam Computed Tomography (CBCT) as well as updates to filtration requirements. Requirements for gonadal shielding have also been removed.

Section 16.53 is updated to include changes for handheld intra-oral radiographic equipment.

Section 16.58 is updated to include new specifications for display of air kerma and minimum source to skin distance, to be consistent with federal manufacturing requirements (21 CFR Part 1020). Language has also been added allowing for an alternative dose reduction method to be used in lieu of wearing lead equivalent garments by all persons working the fluoroscopy room.

Sections 16.60 and 16.61 are updated to reflect current technologies and therapy equipment operated at potentials over and below 60 kV.