

Georgia Board of Health Care Workforce

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NOTICE OF INTENT TO ADOPT RULES

THE GEORGIA BOARD OF HEALTH CARE WORKFORCE

Rule Chapter 195

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Board of Health Care Workforce (hereinafter “Board”) proposes amendments to the following Georgia Board of Health Care Workforce Rules (hereinafter “proposed amendments.”):

New Rule Chapter 195-22 “Medical Malpractice Insurance Premium Grant Program”

This notice, together with an exact copy of the rules including the proposed amendments and a synopsis of the proposed amendments, is being forwarded to all persons who have requested, in writing, that they be placed on an interested parties list. A copy of this notice, an exact copy of the rules including the proposed rules, and a synopsis of the proposed rules may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Georgia Board of Health Care Workforce 2 Peachtree Street NW, Atlanta, GA, 30303. These documents will also be available for review on the Georgia Board of Health Care Workforce’s web page at <https://healthcareworkforce.georgia.gov/rules-laws/notice-intent-amend-rules>.

SYNOPSIS OF PROPOSED RULES

New Rule Chapter 195-22 “Medical Malpractice Insurance Premium Grant Program”

Purpose and Main Feature of the Rule:

The purpose of this rule is to update the requirements to provide malpractice premium funding to physicians that maintain a practice in an underserved rural area of the state, and to change the name of the Board.

NOTICE OF PUBLIC HEARING

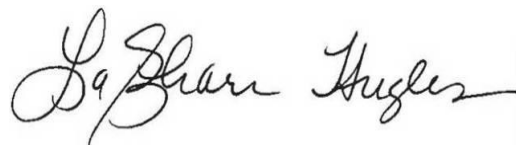
A public hearing is scheduled to begin at **9:00 a.m.** on **October 17, 2019** at **Mercer University, President's Dining Room in the University Center, 1501 Mercer University Drive, Macon, GA 31207** to provide the public an opportunity to comment upon and provide input into the proposed amendments. At the public hearing, anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five minutes per person. Additional comments should be presented in writing. Written comments are welcome. To ensure their consideration, written comments must be received prior to October 10, 2019. Written comments should be addressed to Executive Director of the Georgia Board of Health Care Workforce 2 Peachtree Street NW, 6th Floor, Atlanta, Georgia 30303. FAX: 404-656-2596. You may email your comments to lhughes@dch.ga.gov.

At the end of the Public Hearing the proposed rule amendments will be considered by the Georgia Board of Health Care Workforce at its meeting scheduled to begin at 9:00 a.m. on October 17, 2019 at **Mercer University, President's Dining Room in the University Center, 1501 Mercer University Drive, Macon, GA 31207**. According to the Department of Law, State of Georgia, the Georgia Board for Physician Workforce has the authority to adopt the proposed rule amendments pursuant to authority contained in Authority O.C.G.A § 31-34-5.

For further information, contact the Board office at 404-232-7972. This notice is given in compliance to with O.C.G.A § 50-13-4

Posted:

This 5th day of September 2019.



LaSharn Hughes MBA
Executive Director
Georgia Board for Physician Workforce

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Rule 195-22-.01 General Definitions

(1) "**Medical malpractice insurance**" is insurance that covers the physician against claims brought against him/her in cases of alleged professional negligence in delivery of medical treatment.

(2) "Medical Malpractice Premium" A medical malpractice insurance **premium** is a periodic payment made on a **malpractice** insurance policy to keep it in good standing.

(3) "Underserved rural area" a Georgia county with a population of 50,000 or less according to the United States decennial census of 2016 or any future such census. ~~with one or less physicians.~~

(4) "Grant Program" is the Georgia Board for Physician of Health Care Workforce Medical Malpractice Insurance Premium Assistance Program.

(5) "Composite Medical Board" is the Board that licenses physicians in the state of Georgia.

(6) "Full time practice" refers to the minimum number of hours of work required per week to fulfill service obligation. Full time is considered at least 40 clinical hours providing direct patient care during normal clinic hours at the approved practice site. On-call hours are not considered part of the full-time requirement. No more than 7 weeks (35 workdays) per year can be spent away from the practice for vacation,

holidays, continuing professional education, illness or any other reason. Absences greater than 7 weeks in a service year will extend the service commitment.

(7) "Continuing Medical Education" Continuing medical education consists of educational activities which serve to maintain, develop, or increase the knowledge, skills, and professional performance and relationships that a physician uses to provide services for patients, the public, or the profession. The content of CME is that body of knowledge and skills generally recognized and accepted by the profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of health care to the public.

(8) "Board Certified" mean having satisfied the requirements for board certification.

(9) "Weekend or extended hours" Provide weekend or extended hours.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.02 Eligibility Criteria

(1) To be eligible to receive a grant under the grant program, a physician shall meet the following qualifications:

(a) Maintain a practice in a medically underserved rural area of the state; ~~that currently has one or less physician;~~

(b) Be licensed to practice in this state and board certified;

(c) Complete a minimum of 100 hours biennially of continuing medical education as approved by the Georgia Composite Medical Board;

(d) Provide weekend or extended hours; and

(e) Accept Medicaid and Medicare patients.

(f) A physician receiving a grant pursuant to the grant program shall agree to practice medicine in such medically underserved rural areas of the state full-time as defined by the Board.

(g) Must meet all other requirements as set forth by the Georgia Board for Physician of Health Care Workforce.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.03 Application and Review Process

(1) Each applicant must:

(a) Submit a completed application form

(b) Submit proof of malpractice policy and premium

(c) Submit a copy of the contract between the practice entity and the applicant or a letter of attestation from the applicant documenting a commitment to full time (40+ hours per week) practice in the rural community where the practice is located.

(2) Administrative Review.

A. The Board Staff shall collect and maintain documentation of the following information from applicants:

1. Application form.
2. Full disclosure of malpractice policy and all premiums
3. Documentation of the county and city/town population where the practice is located.
4. Documentation that the practice will be in a medically underserved rural area of the state. ~~located in a rural Georgia community with one or less physicians.~~
5. Copy of the employment contract documenting full time (40+ hours per week) practice in the rural community where the practice is located.
6. Documentation verifying enrollment in the Georgia Medicaid and the Federal Medicare programs.

B. The Board staff shall review application materials to ensure eligibility requirements are met and all required documentation has been submitted.

C. Staff will compile the information and prepare a summary of each applicant for the Board's review.

(3) Board Review, Criteria for Prioritizing Awards and Approval Process.

A. The Board shall receive and act upon all applications made by eligible and qualified applicants.

B. The Board may employ such methods of applicant evaluation that it deems proper.

C. The Board shall not discriminate or evaluate applicants on the basis of race, religion, gender or national origin.

D. The Board shall review all documentation submitted by the applicant and by the Board staff to assure that the applicant meets all eligibility requirements.

E. The Board shall prioritize awards based on the following criteria:

(1) Number of physicians in the county. Counties with no physicians shall be given the highest priority.

F. The Board shall establish a final ranking of all qualified applicants from highest priority to lowest priority and shall allocate awards based on availability of funds and the final rank order of the applicants.

G. Action approving the applicant ranking and order of awards shall be made upon majority vote of the Board members present.

H. Action on awards shall be duly recorded in the minutes of the Board meeting.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.04 Award Process

A. The Board staff shall notify each applicant in writing of the Board's decision within ten (10) days following the decision.

B. The successful applicant will be asked to accept or decline the award of a loan by signing and submitting an *Acceptance Form*.

C. Those applicants who accept the grant award shall receive a contract for participation in the Program. Each recipient will be allowed 10 days in which to review the contract with an attorney as to its contents if they so choose.

D. Grant awards that are rejected by the applicant shall be made available to the next highest ranking applicant based on the discussion and action taken by the Board.

E. The Board staff shall arrange for all valid and approved contracts to be executed by the Executive Director and Board Chairman. Such documents shall be notarized and the official seal affixed.

F. One of two fully executed copies of each loan contract shall be returned to the applicant and one kept in the permanent records of the GBPW.

G. Funds shall be reimbursed to the recipient upon receipt of payment.

H. The Board staff shall submit appropriate documentation to the Georgia Department of Community Health to process a payment.

I. The Board staff shall maintain appropriate records necessary to account for the expenditure of funds for the Program.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.05 Contract Provisions

- A. The term of the Program contract will be one year of coverage.
- B. Awards shall be in an amount determined by the Board at the annual meeting of the Board.
- C. Recipients shall provide one year of service in a practice location approved by the Board for each contract.
- D. If funds are available, the contract may be renewed up to three times, for a total of four contract years.
- E. Annual documentation of the physician's practice location and other information is required to be submitted by the recipient in the form of an annual report to the Board. Failure to submit the annual report will eliminate eligibility for contract renewal.
- F. Each recipient is responsible for keeping the Board apprised of his/her current address, email address, and telephone number at all times.
- G. The Board has the discretionary power to cancel any contract for cause deemed sufficient by the Board. Upon such cancellation by the Board, the total uncredited amount of the grant paid on behalf of the recipient shall at once become due and payable to the Georgia Board for Physician of Health Care Workforce.
- H. The Georgia Board for Physician of Health Care Workforce is vested with full and complete authority to bring an action in its own name against any recipient for any balance due the Georgia Board for Physician of Health Care Workforce on any such contract.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.06 Contract Default, Penalty and Appeal

- (1) Default - a recipient will be considered in default of the contractual obligations of the Program under any of the following situations:
 - (a) The recipient loses his/her Georgia physician license or restrictions are placed on the recipient's license rendering him/her ineligible to practice full-time in agreement with the terms of the contract;
 - (b) The recipient fails to begin professional practice in a Board approved practice location in a rural community in Georgia as specified in the contract;
 - (c) The recipient fails to complete the full term of the contractual service obligation in the practice location specified in the contract;
 - (d) The recipient fails to maintain a full-time practice (40+hours per week) in the Board approved practice location specified in the contract;

- (e) The recipient fails to provide Board staff with access to records or other information necessary to monitor the recipient's compliance with contract terms.
- (2) Penalty for Default - upon a finding of default by the Board, the recipient shall immediately be liable to the Board for the original principal amount of the grant award provided to the recipient.
 - (3) Reduction of Penalty - the Georgia Board ~~for Physician~~ of Health Care Workforce may consent or agree to a lesser measure of damages in recognition of service provided or for other compelling reasons.
 - (4) Appeal Process - a recipient found to be in default may appeal the finding to the Board in writing. The recipient shall also have the right to request a hearing before the Board to appeal a finding of default or enforcement of the penalty provision. If a recipient fails to appear for a scheduled hearing before the Board, the recipient shall forfeit all rights of appeal. The Board shall consider appeals from recipients prior to enforcement of the penalty provision.
 - (5) Enforcement of Penalty - the penalty provision for default shall be enforced by a letter of demand for payment from the Board to the recipient. If the recipient fails to respond to the letter of demand for payment, collection shall be pursued through the civil courts.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.07 Monitoring Compliance

- (1) The Board shall monitor compliance primarily through information submitted by the recipient in an annual report, which shall include information about the recipient and about the recipient's practice as it relates to the service obligations of the contract.
- (2) The Board may also monitor compliance through on-site visits by Board staff or contracted compliance officers to the recipient's practice during the contract period. Such on-site visits may be unannounced.
- (3) The Board, at its discretion, may monitor compliance through other appropriate means.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.08 Allocation of Funds

- (1) Funds for all awards granted through the Medical Malpractice program shall be allocated from funding appropriated to the Georgia Board ~~for Physician~~ of Health Care Workforce by the Georgia General Assembly for that purpose.

Authority: OCGA Sec. 31-34-20

Rule 195-22-.09 Accounting Procedures and Reporting Requirements

- (1) The Georgia Department of Community Health shall maintain appropriate records in accordance with the provisions of the Georgia Administrative Attachment Statute, O.C.G.A. § 50-4-3.

Authority: OCGA Sec. 31-34-20

Rule 195-14-.10 Due Process and Collection Provisions in the Event of Default

A. Assessment of Default.

Board staff shall investigate potential default situations, obtain information from recipients pertaining to the potential default report to the Board.

B. Notification and Due Process Procedures.

In the event the Board determines a recipient to be in default, the following steps shall be taken:

(1) Notification of Default.

The Executive Director of the Board shall notify the recipient by certified mail of the Board's finding that the recipient is in default. The letter of notification shall include the facts upon which the Board made its finding of default. The letter of notification shall provide information on the penalty provisions of the contract, including the total penalty due and payable, the Board's procedures for enforcement of the penalty provisions, and the opportunity for the recipient to obtain a hearing before the Board to appeal the finding of default.

(2) Opportunity for a Hearing prior to enforcement of penalty provisions.

Upon receipt of a notice of default, the recipient will be allowed thirty (30) days from the mailing date of the default notice to request a hearing before the Board to dispute the finding of default or to provide information to the Board as to why the penalty provisions of the contract should not be enforced. Said hearing shall take place at the next scheduled full board meeting if practicable, or the one immediately following that meeting.

(3) Hearing.

- a. The Board Chair shall serve as the presiding officer for the hearing. In the absence of the Chair, the Board Vice-Chair shall preside.
- b. The recipient shall have a reasonable amount of time during the hearing to present information relevant to the issue of default to the

Board. The presiding officer of the hearing shall determine the length of the hearing and shall have the sole authority to bring the hearing to closure.

- c. Testimony of individuals with knowledge relevant to the recipient's case is requested to be submitted in writing to the Board at least one week prior to the date of the hearing.

The presiding officer of the hearing may permit live testimony if, in the sole opinion of the presiding officer, the information to be presented by witnesses is relevant and useful to assist the Board in making an appropriate decision.

- d. At the conclusion of the hearing, action to accept or reject the recipient's appeal shall be made by majority vote of the Board members present. The decision of the Board shall be final.
- e. The recipient shall be notified in writing of the Board's decision within ten (10) days of the date of the hearing.
- f. If the recipient declines the offer of a hearing before the Board or fails to appear as scheduled, the penalty provisions of the contract shall be enforced immediately.

C. Enforcement of Penalty Provisions.

- (1) In the event of default, and following implementation of the notification and due process procedures, the penalty provisions of the contract shall be enforced through the civil courts.
- (2) Principal and penalties collected through the courts shall be used to pay the balance of any costs of collection, with the balance returned to the State of Georgia treasury.
- (3) Penalty payments made to the State Treasury shall be duly recorded by the Georgia Board ~~for Physician~~ of Health Care Workforce and a record of payment maintained in the recipient's permanent file.

Authority: OCGA Sec. 31-34-20