TSBME Denies Medical Licensure to M.D./Ph.D. Student

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An increasing number of American medical schools are offering combined M.D./Ph.D. degree programs that provide students the opportunity to earn an M.D. as well as a Ph.D. in an area related to medicine. According to the Texas Medical Practice Act (Act), M.D./Ph.D. students who wish to become licensed to practice medicine in Texas must take and pass the United States Medical Licensure Examination (USMLE) not later than the second anniversary of the date the applicant was awarded his or her doctor of medicine degree. A July 13, 2004, letter from the Texas State Board of Medical Examiners to the Texas Attorney General highlights provisions within the Act that will be implicated by many M.D./Ph.D. students as they seek to satisfy their medical and graduate schools’ different curricula and examination requirements.

Each state’s physician licensing law requires an applicant for a license to practice medicine to pass each part of the USMLE. The USMLE is a three-step examination that is sponsored by the Federation of State Medical Boards and the National Board of Medical Examiners. Results of the USMLE are reported to state medical boards for use in granting initial licenses to practice medicine. The USMLE has three different parts. The first part assesses whether medical school students or graduates understand and can apply important concepts of the sciences basic to the practice of medicine. The second part assesses whether medical school students or graduates can apply medical knowledge, skills and understanding of clinical science essential for provision of patient care under supervision. The third part assesses whether medical school graduates can apply medical knowledge and understanding of biomedical and clinical science essential for the unsupervised practice of medicine.

According to the U.S. Medical School National Association of M.D./Ph.D. Programs, one hundred and eighteen American medical schools offer M.D./Ph.D. programs. Seven Texas medical schools offer an M.D./Ph.D. program including Baylor College of Medicine in Houston, Texas A&M University System Health Science Center

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1 See, e.g., TEX. OCC. CODE §§ 155.051(a), 155.0511(7).
3 Id.
5 Id.
6 Id.
7 Id.
9 See “Medical Scientist Training Program at the Baylor College of Medicine,” described at http://www.bcm.edu/mstp/flash.html.
in College Station,\textsuperscript{10} Texas Tech University Health Sciences Center in Lubbock,\textsuperscript{11} University of Texas Medical Branch at Galveston,\textsuperscript{12} University of Texas Health Science Center at Houston,\textsuperscript{13} University of Texas Health Science Center at San Antonio,\textsuperscript{14} and University of Texas Southwestern Medical Center at Dallas.\textsuperscript{15}

All individuals who apply for licensure by the TSBME must meet the statutory examination requirements set forth in Chapter 155 of the Act.\textsuperscript{16} Section 155.051 of the Act generally requires applicants to pass each part of the USMLE within seven years.\textsuperscript{17} However, the Act creates an exception to this general rule for applicants who have graduated from a program designed to lead to both an M.D. and a Ph.D. Under the exception, the applicant need not pass all parts of the USMLE within a seven-year period. Instead, the applicant need only pass all parts of the USMLE not later than the second anniversary of the date the applicant was awarded his or her doctor of medicine degree.\textsuperscript{18} The TSBME explains its understanding of the exception:

Due to the nature of the [M.D./Ph.D.] programs, in that they take longer than the normal four years required by medical schools and sometimes delay the readiness of applicants to take the exams, the Legislature created an exception. The exception provides that applicants who have completed such programs need not pass all examination parts within a seven year period, but merely that they pass all parts within two years of graduating from the program.\textsuperscript{19}

The Act also establishes general requirements relating to the number of times an individual may take all parts of a licensure examination, which are set forth at Section 155.056 of the Act. The general rule is that an applicant must pass each part of an examination within three attempts, except that an applicant who has passed all but one part of an examination within three attempts may take the remaining part of the examination one additional time.\textsuperscript{20} The Act contains an exception for certain individuals who have obtained specialty board certification and have completed additional training.

\begin{itemize}
\item \textsuperscript{10} See “M.D./Ph.D. Training Program at the Texas A&M University System Health Science Center,” described at http://medicine.tamu.edu/mdphd/index.html.
\item \textsuperscript{11} See “Texas Tech University Health Sciences Center M.D./Ph.D. Program,” described at http://www.ttuhsc.edu/gsbs/md.asp.
\item \textsuperscript{12} See “UTMB MD-PhD Combined Degree Program,” described at http://www.utmb.edu/mdphd/.
\item \textsuperscript{13} See “Welcome to the MD/PhD Program of the University of Texas Health Science Center at Houston,” described at http://www.uth.tmc.edu/gsbs/programs/mdphd/index.html.
\item \textsuperscript{14} See “U.S. Medical School National Association of M.D./Ph.D. Programs,” described at http://www.aamc.org/research/dbr/mdphd/programs.htm (identifying the M.D./Ph.D. program at the University of Texas Health Science Center at San Antonio).
\item \textsuperscript{15} See “Medical Scientist Training Program,” described at http://www.utsouthwestern.edu/utsw/cda/dept21839/files/21914.html.
\item \textsuperscript{16} TEX. OCC. CODE §§ 155.001, 155.051.
\item \textsuperscript{17} Id. § 155.051(a).
\item \textsuperscript{18} Id. § 155.051(b).
\item \textsuperscript{19} Letter from Jennifer S. Kaufman, Assistant General Counsel, Texas State Board of Medical Examiners, to Nancy Fuller, Opinion Committee Chair, Office of the Attorney General 2 (July 13, 2004) [hereinafter, TSBME Letter], available at http://www.oag.state.tx.us/opinions/requests_ga/RQ0248GA.pdf.
\item \textsuperscript{20} TEX. OCC. CODE § 155.056(a).
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Specifically, an applicant will be deemed to have satisfied the requirements relating to the number of examination attempts if the applicant has: (1) passed all but one part of an examination approved by the TSBME within three attempts and passed the remaining part of the examination within five attempts; (2) obtained specialty board certification by a specialty board that is a member of the American Board of Medical Specialties or is approved by the American Osteopathic Association; and (3) completed in Texas an additional two years of postgraduate medical training approved by the TSBME.  

During a TSBME meeting on June 3 and 4, 2004, the TSBME’s licensure committee applied the examination requirements discussed above and denied an applicant a license to practice medicine in Texas based on the applicant’s failure to demonstrate compliance with the Act. The applicant was an M.D./Ph.D. student who received his Ph.D. on May 15, 1999, and his M.D. on May 22, 1999. The applicant passed the first part of the USMLE on September 21, 1993, and the third and final part of the USMLE on May 3, 2002. Because he took almost nine years to pass all three parts of the USMLE, the TSBME found that the applicant did not satisfy the general rule that all applicants must pass all parts of the USMLE within seven years. Accordingly, the TSBME required the applicant to prove that he satisfied the exception to the seven-year rule (which required proof that the applicant passed all parts of the USMLE not later than the second anniversary of the date the applicant was awarded his or her doctor of medicine degree). Because the applicant passed the third and final part of the USMLE in May of 2002 (almost three years after he received his M.D. in May of 1999), the TSBME determined that the applicant did not meet the Section 155.051 exception for M.D./Ph.D. students.

The applicant argued, however, that the TSBME should grant him a license to practice medicine based on the fact that he satisfied Section 155.056 of the Act relating to the number of times an applicant may take all parts of a licensure examination:

Under the applicant’s line of reasoning, since the applicant passed all parts of the licensure examination within three attempts, is board certified and completed an additional two years of postgraduate training in Texas, the applicant should be determined eligible for licensure. By implication the applicant is arguing that § 155.051 should not apply to his application for licensure.

During its June 2004 meeting, the TSBME found that compliance with the provisions set forth at section 155.056 of the Act (relating to the number of times an applicant may take a licensure examination) does not establish compliance with the provisions set forth at section 155.051 of the Act (relating to the time within which the applicant must pass all

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21 Id. § 155.056(b).
22 TSBME Letter, supra note 19, at 1.
23 TEX. OCC. CODE § 155.051(a).
24 Id. § 155.051(b).
25 TSBME Letter, supra note 19, at 3.
26 Id.
parts of the USMLE). Although the TSBME sent a letter to the Texas Attorney General (AG) requesting an opinion confirming its interpretation of the Texas Medical Practice Act on July 13, 2004, the AG has not yet issued an opinion.

The TSBME’s current interpretation of the Act is based on a straightforward application of the Texas Medical Practice Act to the facts of the applicant’s case. However, the TSBME’s letter to the AG highlights controversial language within the Medical Practice Act with which many M.D./Ph.D. students may be unfamiliar. Specifically, the Act permits an M.D./Ph.D. student to pass each part of the USMLE “not later than the second anniversary of the date the applicant was awarded a doctor of medicine degree or doctor of osteopathy degree.” This statutory language appears to require M.D./Ph.D. students who first graduate from medical school and then commence their graduate studies to take and pass the third part of the USMLE within two years of obtaining their M.D., even though they may not have completed their graduate studies by that time. Although the TSBME language quotes this statutory language on the first page of its letter to the AG, the TSBME states on the second page that applicants are only required to pass all parts of the USMLE “within two years of graduating from the program,” thus suggesting that a student is permitted to pass all parts of the USMLE within two years of completing his or her entire M.D./Ph.D. program. Hopefully, the Texas Attorney will identify the correct interpretation of the Texas Medical Practice Act in a formal opinion.

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27 Id.
28 TEX. OCC. CODE § 155.051(b) (emphasis added).
29 TSBME Letter, supra note 19, at 2.