Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 2803 of the Public Health Law, section 405.4 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is hereby amended, to be effective upon publication of a Notice of Adoption in the New York State Register:

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

(2) 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) graduates of 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, their predecessors or successors or an equivalent accrediting agency acceptable to the State Education Department;

(ii) graduates of a foreign medical school 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, 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);]
REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) §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:

10 NYCRR §405.4(g)(2) allows an unlicensed physician to provide medical services in a hospital under a limited permit to practice medicine under Education Law §6525 when the State Education Department (SED) determines that the applicant meets SED 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 training, beyond what is required for a limited permit under Education Law §6525. This proposed regulation would eliminate the extra years of training required for limited permittees to work in hospitals.

New York State is experiencing a shortage of licensed physicians in all areas of the state. Limited permit holders are fully trained physicians, often graduates of international medical
schools, that are working in various health care settings until full licensure requirements can be met. It is typically the U.S. citizenship requirement that prevents many limited permit holders from initially obtaining full licensure.

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. SED has confirmed the understanding of the New York State Department of Health that any educational disparities are minimal today due to medical school accreditation standards. Nevertheless, under the current regulations, hospitals must require the limited permit holders to have the additional years of training. 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 utilized in hospitals. Given the shortage of licensed physicians to cover vital hospital services, this proposed amendment will eliminate a barrier to limited permit holders practicing in hospitals.
Finally, since all limited permit holders are subject to supervision and oversight by a licensed physician, their practice within the hospital will be monitored and safe.

**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.

**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 Mandate:**

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.

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.
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STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.
STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS

A Rural Area Flexibility Analysis for these amendments is not being submitted because the proposed amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.
STATEMENT IN LIEU OF JOB IMPACT STATEMENT

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. No adverse impact on jobs and employment opportunities is expected as a result of these proposed regulations.