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### **1. Due Process Clause of the 14th Amendment**

#### **Due Process Clause**

The due process clause of the 14th Amendment provides that an individual is entitled to notice and hearing prior to his rights or property being taken away or withheld by a government authority.

Here, State A's legislature enacted a statute creating a Physician Retention Program (PRP) at each of the state's medical schools. The statute provided a tuition waiver in the annual payment of \$10,000 to a resident who applies and gets selected for the program. Doug is a resident of State B and applied for the PRP program, but was denied, however in order to be eligible for the incentives, out-of-state residents have to live in State A for a year. Here Doug may argue that the denial of his application violates the equal protection clause because State A did not provide him with notice nor an ability to seek his rights. However, this argument will fail because the right to a program is not a guaranteed right as described under the Constitution. Denial of a hearing here is not applicable because the State A government did not take life nor liberty from Doug.

Therefore, Doug will not likely succeed in a challenge of the statute based on the due process clause of the 14th Amendment.

### **2. Equal Protection Clause of the 14th Amendment**

The equal protection clause applies to the states through the 14th Amendment and guarantees that individuals are entitled to equal protection based on their status. Depending on the type of regulation the government must prove there is an interest in the them.

Here, the Equal Protection Clause may apply because the statute establishes factors for admission.

#### **Undergraduate GPA - Rational Basis Test**

Undergraduate GPA is not a fundamental right nor factor that should be considered. Thus in order for the legislation to be constitutional the challenger bears the burden of proving that there is a legitimate government interest that is rationally related to the legislation.

Here, Doug will likely lose this argument because the government does have an interest that is rationally related in its selection criteria of applicants. Thus, the statute's authorization of considering undergraduate GPA will not be unconstitutional on its face.

Therefore, the undergraduate GPA will likely be deemed to be constitutional.

#### **Work Experience - Rational Basis Test**

See rule above.

Here, Doug will be unable to show that the regulation is not rationally related to an important government interest because this criteria is rationally related to selection criteria. Here, the criteria used work experience as a factor in determining whether a medical student is eligible for the tuition waiver. Here, Doug as the challenger will be unable to show that the legislation is not rationally related and will thus not

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be successful because work related may be important to determining eligibility.

### **Race - Strict Scrutiny**

Race is a protected class under the 14th Amendment. In order for a provision in statute to be constitutional where race is targeted, the government must prove that the regulation is necessary to achieve a compelling government interest.

Here, the government will not be able to show that race is a relevant factor in determining whether an applicant is entitled to the tuition waiver because there is not a causal link between the regulation and the government interest. This factor of the regulation will not survive the strict scrutiny test because the government will be unable to justify this factor. Here, Doug will be successful in establishing that part of this regulation is unconstitutional because this factor does not satisfy the strict scrutiny test.

Therefore, Doug will likely prevail in showing that the race factor for admission is unconstitutional on its face.

If Doug brings a case of action based on the equal protection clause of the 14th amendment, he may be able to succeed based on the third factor because it is unconstitutional on its face. He may be able to successfully argue that the factor renders the whole regulation as void because there is no way to determine whether the race factor was considered in all applications and how much weight the State placed on it.

### **3. The Privileges and Immunities Clause of the 14th Amendment**

The privileges and immunities clause prevents states from discriminating against residents of other states based on state citizenship by requiring them to live in the specific state to be entitled to certain benefits.

#### **Fundamental Right to Travel**

The right to travel freely between the states is a fundamental right granted to individuals by the 14th Amendment of the Constitution. In order for a state to regulate an individual's travel, the regulation must pass strict scrutiny.

Here, the PRP requires that applicants must live in State A for at least one year by establishing residency in order to receive the incentives. Here, this regulation is not likely to pass the strict scrutiny test because the regulation is treating in-state and out-of-state residents differently by not allowing residents to apply unless they have lived in State A for over a year. This regulation will be unconstitutional because State A will not be able to prove that it is necessary to achieve a compelling government interest.

Therefore, the statute's limitation to in-state residents will be unconstitutional because it encourages people to establish residency in State A by only making PRP eligible to in-state residents.

The federal court will likely rule in Doug's favor.

### **4. The Privileges and Immunities Clause of the 5th Amendment**

The Privileges and Immunities Clause of the 5th Amendment prevents a state government from taking a fundamental right away from a citizen by preventing them from accessing state functions based on citizenship.

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Here, the statute also has a factor that considers whether the applicant was raised in a targeted low income or rural community for more than 3 years. Here, Doug from State B and lived in a wealthy community. The Privileged and Immunities Clause prevents State A from discriminating against him based on citizenship.

Therefore, Doug will likely be able to prevail in a claim against state A based on the Privileges and Immunities Clause of the 5th Amendment and the federal court will rule in his favor.

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**END OF EXAM**