



MEDICAL BOARD OF CALIFORNIA
Executive Office



LICENSING COMMITTEE

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Gerrie Schipske, R.N.P., J.D.

January 28, 2010

Embassy Suites
San Francisco Airport
Mendocino/Burlingame Room
150 Anza Boulevard
Burlingame, CA 94010
(650) 342-4600

*Action may be taken on any item
listed on the agenda.*

AGENDA

2:00 p.m. – 3:00 p.m.
(or until conclusion of business)

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

Open Session:

1. Call to Order/Roll Call
2. Statutory Amendments to the Business and Professions Code Proposed for 2010
 - . Section 2184. Examination score validity.
3. Regulatory Amendments to Title 16, California Code of Regulations, Proposed for 2010
 - . Section 1306. Abandonment of application.
 - . Section 1315.50. Limited license.
 - . Section 1321. Postgraduate training authorization letter.
 - . Section 1328. Written examinations.
 - . Section 1378.50. Polysomnographic technologists.
4. Update on the Implementation of the Limited License Program, Business and Professions Code Section 2088
5. Public Comment on Items Not on the Agenda
6. Agenda Items for Next Meeting
7. Adjournment

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.

NOTICE: The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting may make a request by contacting Cheryl Thompson at (916) 263-2389 or email cthompson@mbc.ca.gov or send a written request to Ms. Thompson at the Medical Board of California, 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation. Requests for further information should be directed to the same address and telephone number.

Meetings of the Licensing Committee are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Committee, but the Chair may apportion available time among those who wish to speak.

For additional information, contact the Licensing Program at (916) 263-2382.

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 7, 2010
 SUBJECT: Statutory Amendments Proposed for 2010
 STAFF CONTACT: Deborah Pellegrini

REQUESTED ACTION:

Licensing Committee work with Board staff on the amendment of Business and Professions (B&P) Code Section 2184.

STAFF RECOMMENDATION:

Staff recommends that the Licensing Committee be involved in the amendment to Section 2184 proposed below.

EXECUTIVE SUMMARY:

See Legislation Packet for amendment to B&P Code Section 2184.

Current applicants are required to pass Steps 1, 2 and 3 of the United States Medical Licensing Examination (USMLE) to qualify for licensure. B&P Code Section 2184 provides that an applicant's scores on the written licensing examination are valid for 10 years from the date that the applicant passed each step of the USMLE. The validity period is routinely extended for time spent in postgraduate training, as long as the scores were valid when the applicant began training. The majority of applicants promptly enter ACGME-accredited training after they pass USMLE Steps 1 and 2, and they proceed to licensure within the next one to three years. The provisions of Section 2184 affect those applicants for initial licensure whose scores expired because they did not enter postgraduate training within 10 years after taking the exam. Section 2184 requires them to retake and pass the expired USMLE step(s) before they enter a California training program or qualify for licensure in order to demonstrate their continued clinical competency. Section 2184 does not apply to applicants who have been licensed in another state for at least four years.

Section 2184 permits the Board to extend the validity period of an applicant's scores "for good cause and for time spent in a postgraduate training program, including, but not limited to, residency training, fellowship training, remedial or refresher training, or other training that is intended to maintain or improve medical skills." Staff and legal counsel interpret the phrase "good cause" as a legitimate medical illness or disability or other circumstances beyond the applicant's control that prevented an applicant from proceeding into postgraduate training within 10 years after passing the written exam. However, there are applicants who spend many years in various postgraduate training programs, such as those who are in training leading to a Ph.D., prior to entering an ACGME training program, and this does not meet the "good cause" criterion. Legal counsel advised that simply amending the conjunction in the phrase "for good cause and for time spent" to "for good cause or for time spent" would allow staff to exercise greater flexibility in reviewing applicants' cases pursuant to Section 2184. Therefore, staff's recommendation is to change the "and" to an "or" in Section 2184. The amendment would be non-controversial and could be achieved through omnibus legislation.

FISCAL CONSIDERATIONS:

No fiscal impact.

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 11, 2010
 ATTENTION: Medical Board of California
 DEPARTMENT: Licensing Program
 SUBJECT: Regulatory Amendments Proposed for 2010
 STAFF CONTACT: Deborah Pellegrini

REQUESTED ACTION:

Approve staff developing the following regulatory amendments during 2010.

STAFF RECOMMENDATION:

Staff recommends authorization to develop the regulatory proposals suggested below.

EXECUTIVE SUMMARY: Staff has identified the following five areas where the Legislative Committee may want to recommend staff development of amendments to Title 16 of the California Code of Regulations during 2010. New legislation mandates two of the regulatory proposals. Staff recommends the remaining three regulatory proposals to strengthen and clarify the routine application review and licensure process.

1. Abandonment of Licensing Application. Section 1306 of Title 16, California Code of Regulations, provides that staff may close a licensing application after one year if the applicant fails to apply due diligence in completing the licensing process. The existing language is inadequate to address the many challenges that staff encounters in balancing the burden on the Board's limited resources of storing hundreds of abandoned applications against the applicants' desire to maintain their applications in active status for years. Recently an applicant requested not closing the file after 18 years of trying to obtain a postgraduate training slot in California. Staff proposes to better define the applicant's responsibility to proceed to licensure within a reasonable timeframe and clarify the circumstances under which staff may close an abandoned application after due notice to the applicant.
2. *Limited license. Effective January 1, 2010, the Board has the authority to issue a limited license to disabled physicians who are able to practice medicine safely within certain parameters agreed upon by the Board and the reviewing physician. The Board will need to adopt regulations to define the application process for this new license type and also define the process by which licensees may qualify for an unrestricted license if their disability resolves. The Board will need to adopt an initial licensing fee and a biennial renewal fee, not to exceed the \$790 maximum fee authorized by the bill. Attached is a copy of Assembly Bill 501 (Emmerson).
3. Postgraduate Training Authorization Letter (PTAL). Statute requires graduates of international medical schools (IMGs) to satisfy certain minimum requirements before they begin postgraduate training in California. After IMGs submit a licensing application and supporting documents, staff issues them a PTAL as evidence that they satisfied these statutory prerequisites. When applicants apply to postgraduate training programs in California, they provide their PTAL to the Program Directors as evidence that they are eligible to begin training in California, if offered a training position. Staff proposes that the Board adopt regulations to clarify the process for obtaining the initial and subsequent PTALs. Staff also recommends that the Board better define the registration process in existing statute in Business and Professions Code Section 2066.

4. *Written Examinations. Section 1328 of Title 16, California Code of Regulations, lists the written examinations, and combinations of examinations, that the Board will accept for licensure purposes. Recently, staff encountered an applicant who passed the combination of Steps 1 and 2 of the United States Medical Licensing Examination (USMLE) and Part III of the National Board of Medical Examiners (NBME) during the transition period when the USMLE was replacing the NBME and Federation Licensing Examination (FLEX). When Section 1328 was amended in 1996 to address the transition to the USMLE, staff was unaware that the testing agencies would make this combination available during the transition period. Therefore, this exam combination was not added to Section 1328 in 1996. Staff proposes that the Board amend Section 1328 to add this exam combination (i.e., USMLE Steps 1 and 2 and NBME Part III) to permit the licensure of otherwise qualified physicians.

Staff also proposes that Section 1328 be amended to specify that applicants' written examination scores shall be valid before they commence postgraduate training in California. Staff has encountered several cases where training programs accepted applicants with expired scores. This delayed the applicants from qualifying for licensure until after they revalidated their written exam scores. A reminder added to Section 1328 would serve to alert applicants and training program directors to check the validity of applicants' written exam scores before the applicant begins postgraduate training in California.

5. *Polysomnographic technologists registration program. Senate Bill 132 (Denham), which took effect on October 23, 2009, requires the Board to regulate polysomnographic technologists. The bill mandates the Board to adopt regulations within one year to design a registration process and define the conditions of the registrants' employment by physicians and surgeons. The Board will need to adopt the initial registration fee and biennial renewal fee for this classification, not to exceed \$100. The Board will hire an associate analyst to implement the new registration program. Attached is a copy of SB 132.

FISCAL CONSIDERATIONS:

The new registration program for polysomnographic technologists and the new limited license classification for disabled physicians both have fiscal impact.

*In terms of prioritizing workload, staff recommends that the Board include in the first group of regulatory amendments the regulations needed to implement the polysomnographic technologist registration program and the limited license category, since new legislation mandates the Board to adopt these regulations. The amendment to Section 1328 is also urgent because a qualified applicant's licensure depends on this minor regulatory amendment. The Board will pursue the proposed regulatory amendments pertaining to PTALs and abandoned applications at a later date.

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 7, 2010
ATTENTION: Medical Board of California
SUBJECT: Implementation of Limited License
STAFF CONTACT: Deborah Pellegrini, Chief

REQUESTED ACTION:

Members adopt the staff recommendation to refer this item to the Licensing Committee for review and approval and direct staff to develop implementation plans, proposed regulatory language, and procedures to implement recent legislation that authorizes the Licensing Program to issue a Limited License to physicians not qualified for a full and unrestricted license due to a limitation or disability.

STAFF RECOMMENDATION:

Staff recommends that they be directed to develop implementation plans, proposed regulatory language and procedures. In addition, staff recommends that the proposals be referred to the Licensing Committee for review and approval at the April, 2010 quarterly meeting of the Board.

EXECUTIVE SUMMARY:

Legislation (AB 501) effective January 1, 2010 will allow the Licensing Program to issue an initial limited license to an applicant for licensure who is otherwise eligible for a medical license in California but is unable to practice all aspects of medicine safely due to a disability.

It will be necessary to establish regulations as well as amend all impacted regulations and statutes in order to implement this recently enacted legislation, Section 2088 of the California Business and Professions Code. In addition, staff will need to develop an application, define process and procedures, and develop a procedure manual.

FISCAL CONSIDERATIONS:

To be determined.