

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 16, 2019
ATTENTION: Members, Medical Board of California
SUBJECT: Proposed Changes to Regulations Regarding Postgraduate Training
FROM: Kerrie Webb, Senior Staff Counsel

REQUESTED ACTION:

After review and consideration of the proposed amendments to the attached regulations relating to postgraduate training, make a motion to direct staff to proceed with the following:

- 1) Prepare the necessary regulatory documents to submit to the Department of Consumer Affairs (DCA) and the Business, Consumer Services and Housing Agency (Agency);
- 2) Upon DCA and Agency approval, submit the documents to the Office of Administrative Law (OAL) to notice the proposed regulatory language to amend Title 16 of the California Code of Regulations (CCR) sections 1320 and 1321; and
- 3) Authorize staff to make non-substantive changes to the language and respond to non-substantive comments during the rulemaking process without returning to the Board.

BACKGROUND

Senate Bill (SB) 798 (Hill, Chapter 775) made revisions related to postgraduate training and licensing requirements for physicians and surgeons effective January 1, 2020. Among other significant changes, the law modified the minimum requirements for postgraduate training so that all applicants for a physician's and surgeon's license would be required to successfully complete 36 months of Board-approved postgraduate training regardless of whether they attended a domestic or international medical school.

In response to these statutory changes, Board staff has been working with DCA, Agency and OAL on overlapping rulemaking packages to amend 16 CCR sections 1320 and 1321. Further changes to the proposed language are necessary for the rulemakings to be consolidated into one proposal, and progress toward approval.

Existing law under 16 CCR section 1320(a) indicates that, unless otherwise provided in this section, all approved postgraduate training shall count toward the two-year or three-year exemption period provided in Section 2065 and 2066 of the Business and Professions Code (BPC), depending on whether an individual went to a domestic or international school. This section further clarifies that all approved postgraduate training is counted toward the two-year or three-year period, regardless of whether the training was successfully completed.

Existing law under 16 CCR section 1320(b) provides an exception to subdivision (a), and allows an individual to participate in a 90-day guest rotation in an approved postgraduate training program in California, even if they have already met or exceeded the number of years of postgraduate training for licensure in California.

Under this proposed regulatory amendment, CCR section 1320(a) will be amended to strike the reference to the two-year and three-year exemption period for practicing without a physician's and surgeon's certificate while in a postgraduate training program. These references will be replaced with the 39-month exemption period, representing the 36 months of training that will be required for a physician's and surgeon's license under BPC section 2065, plus the three month grace period for obtaining the physician's and surgeon's license, once the statutory change becomes effective in 2020. Additionally, this draft includes language to clarify that only postgraduate training for which the applicant received credit shall be counted toward meeting the required 36 months of training. The applicant is not required to complete the entire postgraduate training program for licensure, however, since most programs are longer than 36 months. The reference to BPC section 2066 will also be deleted, since that section will be repealed as of January 1, 2020. Further, under CCR section 1320(b), a non-substantive change will be made to correct a typographical error in the language, and BPC section 2084, regarding the approval of medical schools, will be added.

Existing law under 16 CCR section 1321 describes requirements for approved postgraduate training. Previously, the Board approved changes to CCR section 1321(a), to clarify that it would accept postgraduate training programs located in the United States and/or its territories, or in Canada that are accredited by the Accreditation Council of Graduate Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada. The Board also approved amendments to section 1321 to delete unnecessary language and clarify that it would accept postgraduate training programs accredited by the American Osteopathic Association (AOA) that had reached initial accreditation or pre-accreditation status with the ACGME. Staff, however, recommends deleting the proposed additions regarding the AOA programs. Staff confirmed with AOA that medical doctors will not be admitted to AOA-approved programs until they are accredited by ACGME, at which point, they will meet the requirements for Board approval under existing law.

Finally, staff recommends deleting current language under section 1321(c) regarding the requirement for applicants to be "formally admitted" into postgraduate training programs. Under the statutory changes becoming effective on January 1, 2020, this subdivision is not necessary, and is confusing. As of 2020, under BPC section 2065(a)(4), the Board will receive direct confirmation from the postgraduate training program that the applicant is formally enrolled.

STAFF RECOMMENDATION:

Staff recommends the Board grant authorization to proceed with preparing the necessary rulemaking documents to submit to DCA and Agency for approval, prior to sending the documents to OAL to notice the proposed amendments. Staff further recommends the Board authorize staff to make non-substantive changes to the language and respond to non-substantive comments during the rulemaking process without returning to the Board.

**MEDICAL BOARD OF CALIFORNIA
SPECIFIC LANGUAGE AND PROPOSED AMENDMENTS
APPROVED POSTGRADUATE TRAINING**

PROPOSED TEXT

Legend

Underlined Indicates proposed amendments or additions to the existing regulation

~~Strikeout~~ Indicates proposed deletions to the existing regulation.

1. Amend Section 1320, Chapter 1, Article 6, Division 13, of Title 16 of the California Code of Regulations to read as follows:

§ 1320. Postgraduate Training Exemption Period; Guest Rotations.

(a) Except as otherwise provided in this section, all approved postgraduate training for which the applicant received credit shall count toward the ~~two-year~~ 39-month exemption period provided in Section 2065 ~~and the three-year exemption period provided in Section 2066~~ of the code, including any training obtained within or outside of California, whether a full or partial year of training and regardless of whether the postgraduate training program was successfully completed.

(b) ~~Notwithstanding~~ Notwithstanding the provisions of subsection (a), a person may participate in guest rotations in an approved postgraduate training program in California, not to exceed a total of 90 days for all rotations, if the person has graduated from a medical school ~~that has either been approved pursuant to Section 2084 of the code by the division or recognized by the division as equivalent to an approved medical school~~ and is engaged in approved postgraduate training outside of California.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2037, 2064.5, 2065, 2066, 2084, 2096, 2102, 2103, 2135 and 2428, Business and Professions Code.

2. Amend Section 1321, Chapter 1, Article 6, Division 13, of Title 16 of the California Code of Regulations to read as follows:

§ 1321. Approved Postgraduate Training.

(a) Postgraduate training programs located in the United States and/or its territories, or in Canada that are accredited by meeting the standards of the Accreditation Council on Graduate Medical Education, or the Royal College of Physicians and Surgeons of Canada, or family medicine postgraduate training in Canada accredited by the College of Family Physicians of Canada, shall be approved for the postgraduate training specified in Sections 2064.5, 2065, 2066, and 2096, 2102, and 2103 of the code.

(b) ~~A current list of such programs shall be maintained on file in the Sacramento office of the division.~~

~~(c) An applicant shall have been formally admitted to any postgraduate training program which is completed in order to qualify for licensure as a physician and surgeon. As used in this section, "formally admitted" means the applicant has met the program's requirements for admission to the programs.~~

~~(d)(b) An applicant shall have completed at least 24 ~~one~~ continuous months out of the required 36 months year of approved postgraduate training in a single program in order to qualify for licensure as a physician and surgeon. The ~~one year~~ period required for postgraduate training may be interrupted in cases due to illness or hardship. ~~With respect to an applicant who qualifies for licensure by completing at least two years of approved postgraduate training, the second year shall be one continuous year in a single program, which may be the same or a different program than the first year. The second year may be interrupted in cases due to illness or hardship.~~~~

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2037, 2064.5, 2065, ~~2066~~, and 2096, ~~2102 and 2103~~, Business and Professions Code.