

# MEDICAL BOARD OF CALIFORNIA

## INITIAL STATEMENT OF REASONS

**Hearing Date:** No hearing has been scheduled for the proposed action.

**Subject Matter of Proposed Regulations:** Postgraduate Training

**Section(s) Affected:** Division 13, Title 16, Chapter 1, Article 6, California Code of Regulations (CCR) sections 1320 and 1321.

### **BACKGROUND AND STATEMENT OF THE PROBLEM**

This proposed rulemaking is necessary to make 16 CCR sections 1320 and 1321 consistent with law that became operative on January 1, 2020, and clarify the requirements for postgraduate training approved by the Medical Board of California (Board) to qualify for a physician's and surgeon's license.

Senate Bill (SB) 798 (Hill, Chapter 775, Statutes of 2017) made revisions to postgraduate training and licensing requirements for physicians and surgeons that became operative on January 1, 2020.<sup>1</sup> Specifically, BPC section 2065 subdivisions (c)-(e) modified the licensing exemption period for individuals engaged in approved postgraduate training from one or two years, depending on where the individual went to school, to at least three years (36 months) regardless of whether the medical school attended was domestic or international.<sup>2</sup> (BPC, § 2065, sub. (c)-(e), as added by SB 798, § 29, and amended by SB 1480, § 5.) Additionally, BPC section 2065 subdivision (e) specifies that an applicant for a physician's and surgeon's license must have completed at least 36 months of approved postgraduate training, which includes successful progression through 24 months in the same program. (BPC, § 2065, sub. (e), as added by SB 798, §29, and amended by SB 1480, § 5.)

Further, SB 798 made changes to streamline the process for recognizing international medical schools. Beginning January 1, 2020, pursuant to BPC section 2084, the Board will recognize international medical schools as meeting the educational requirements for a postgraduate training license or physician's and surgeon's license if the school has been evaluated by the Educational Commission for Foreign Medical Graduates (ECFMG) or an ECFMG-authorized accreditation agency and deemed to meet the

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<sup>1</sup> SB 1480 (Hill, Chapter 571, Statutes of 2018) made additional changes to BPC section 2065, but it is the changes made by SB 798 that prompted this rulemaking.

<sup>2</sup> Individuals engaged in postgraduate training may engage in the practice of medicine as required by the training program without a physician's and surgeon's license for a maximum of 39 months. (BPC, §2065, Sub. (d).)

requirements substantially equivalent to requirements of medical schools accredited by the Liaison Committee on Medical Education (LCME), Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation. (BPC, § 2084, sub. (b)(1), as added by SB 798, §36.) The Board will also recognize schools listed on the World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education and Research (FAIMER) World Directory of Medical Schools joint directory or the World Directory of Medical Schools, and schools previously approved by the Board for a period of seven years from the date of enactment of this section. (BPC, § 2084, sub. (b)(2)-(3), as added by SB 798, §36.)

SB 798 also added BPC section 2096, relating to proof of Board-approved postgraduate training, to become operative on January 1, 2020. (BPC, § 2096, as added by SB 798, §48.) Pursuant to changes in BPC section 2096, subdivision (b), as of January 1, 2020, the Board will accept postgraduate training programs approved by the College of Family Physicians of Canada (CFPC), in addition to those approved by the Accreditation Council for Graduate Medical Education (ACGME) and the Royal College of Physicians and Surgeons of Canada (RCPSC).

To conform with the changes in law that became operative on January 1, 2020, the Board proposes the amendments described below to 16 CCR sections 1320 and 1321 regarding licensure exemption periods, guest rotations and approved postgraduate training.

### **SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND RATIONALE:**

#### **Amend 16 CCR section 1320. Postgraduate Training Exemption Period; Guest Rotations**

Existing law under 16 CCR section 1320 sets forth the licensing exemption period during which an individual can practice medicine in an approved postgraduate training program in California without a physician's and surgeon's license, and provides an exception to permit an individual meeting certain requirements to participate in guest rotations in an approved postgraduate training program.

#### **16 CCR section 1320, subdivision (a)**

Purpose: The purpose of amending 16 CCR section 1320, subdivision (a) is to make this regulation consistent with BPC section 2065, as added by SB 798, section 29, and amended by SB 1480, section 5, which made changes to the Board's postgraduate training and licensing exemption periods and requirements for a physician's and surgeon's license. Beginning on January 1, 2020, BPC section 2065 subdivisions (c)-(e) modifies the license exemption period from one or two years, depending on where the applicant went to medical school, to 39 months for all applicants, regardless of whether the medical school attended was domestic or international. Additionally, applicants will have to demonstrate that they have successfully completed at least three years (36

months) of approved postgraduate training to qualify for a physician's and surgeon's license. (BPC § 2065, sub. (e), as added by SB 798, § 29, and amended by SB 1480, § 5; BPC § 2096, as added by SB 798, § 49.)

16 CCR section 1320, subdivision (a), provides a licensing exemption period to permit individuals to practice medicine without a physician's and surgeon's license while they are engaged in approved postgraduate training. This rulemaking amends 16 CCR section 1320, subdivision (a), for consistency with SB 798 by clarifying that all approved postgraduate training for which the applicant received credit counts toward the 39-month exemption period provided in BPC section 2065.

Additionally, SB 798, section 30, repealed BPC section 2066, effective January 1, 2020. Consequently, this proposal deletes the citation to this section, as well as the reference to the three-year exemption period provided in BPC section 2066.

Finally, BPC section 2065 subdivision (d), as added by SB 798, section 29, and amended by SB 1480, section 5, provides that all approved postgraduate training the medical school graduate has successfully completed in the United States or Canada shall count toward the 39-month license exemption. Accordingly, this proposal amends 16 CCR section 1320, subdivision (a), to clarify that all approved postgraduate training for which the applicant received credit is counted toward the 39-month exemption period regardless of whether the postgraduate training program was successfully completed, as many postgraduate training programs are longer than the exemption period permitting individuals to practice medicine without a license.

Anticipated Benefit: The anticipated benefit to amending 16 CCR section 1320, subdivision (a), is that this regulation will be made consistent with changes to BPC section 2065 that became operative on January 1, 2020, pursuant to SB 798, sections 29-30, and SB 1480, section 5, which will provide clarity to interested parties, including those participating in postgraduate training programs and/or seeking a physician's and surgeon's license in California. Clarity and consistency in this regulation supports the Board's mission of consumer protection through its licensing and enforcement functions.

Rationale: Prior law under BPC section 2065 permitted graduates of U.S. or Canadian medical schools to practice medicine in California without a physician's and surgeon's license for two years as part of an approved postgraduate training program under specified conditions. These individuals had to be licensed by the end of their second year of training, or they must stop practicing medicine until they are licensed. Thus, their exemption period to be able to practice medicine in a postgraduate training program without a license was two years. This section was repealed as of January 1, 2020. (SB 798, § 28.)

Prior law under BPC section 2066 permitted graduates of international medical schools to practice medicine in California without a physician's and surgeon's license for three years as part of an approved postgraduate training program under specified conditions. These individuals had to be licensed by the end of their third year of training, or they

must stop practicing medicine until they are licensed. Thus, their exemption period to be able to practice medicine in a postgraduate training program without a license was three years. This section was repealed as of January 1, 2020. (SB 798, § 30.)

On January 1, 2020, a new version of BPC section 2065 became operative, and permits graduates of approved medical schools to practice medicine in California without a physician's and surgeon's license for 39 months as part of an approved postgraduate training program under specified conditions. (BPC, § 2065 subdivision (d), as added by SB 798, § 29, and amended by SB 1480, § 5.) These individuals must be licensed within 90 days of successfully completing three years (36 months) of approved postgraduate training, or they must stop practicing medicine until they are licensed. (BPC, § 2065, subdivision (c), as added by SB 798, § 29, and amended by SB 1480, § 5.) Thus, their exemption period to be able to practice medicine in a postgraduate training program in California without a physician's and surgeon's license is 39 months.

To implement SB 798 and SB 1480, it is necessary for the Board to revise 16 CCR section 1320, subdivision (a) relating to the postgraduate training exemption period.

Existing law under 16 CCR section 1320, subdivision (a), provides that all approved postgraduate training counts towards the two-year exemption period provided in former BPC section 2065 and the three-year exemption period provided in former BPC section 2066, including any training obtained within or outside of California, regardless of the length of training, and regardless of whether the training was successfully completed.

This rulemaking amends 16 CCR section 1320, subdivision (a), to strike reference to the two-year and three-year exemption periods provided in former BPC sections 2065 and 2066, respectively, and to amend it to include a 39-month exemption period provided in BPC section 2065 that became operative on January 1, 2020. (BPC, § 2065, sub. (c)-(e), as added by SB 798, § 29, and amended by SB 1480, § 5.) Moreover, reference to Section 2066 will be deleted, as this section was repealed as of January 1, 2020. (SB 798, § 30).

These changes are necessary, because as of January 1, 2020, there is longer a difference in the license exemption period for individuals who attended an international versus a domestic medical school. Instead, the licensing exemption period will be 39 months for all individuals engaging in approved postgraduate training in California, which represents the 36 months of approved postgraduate training required for a physician's and surgeon's license, plus a 90-day additional exemption period to avoid interruption to their practice while the Board reviews and verifies proof of meeting all requirements necessary for licensure. Consequently, section 1320, subdivision (a), has to be changed to reflect a 39-month exemption period to permit the practice of medicine within an approved postgraduate training program in California without a physician's and surgeon's license.

Additionally, this proposal amends 16 CCR section 1320, subdivision (a), to clarify that all approved postgraduate training for which the applicant received credit shall count

toward the 39-month exemption period, regardless of whether the postgraduate training program was successfully completed. This change conforms the regulation to statute. It is necessary to clarify that the Board counts approved postgraduate training for which the applicant received credit toward the 39-month exemption period, even if the postgraduate training program itself was not completed. This allows applicants to participate in more than one postgraduate training program, and recognizes that many postgraduate training programs are longer than the exemption period, so they would not be completed by the time licensure is required.

## **16 CCR section 1320, subdivision (b)**

Purpose: The purpose of amending 16 CCR section 1320, subdivision (b), is to clarify that a person must have graduated from a medical school approved pursuant to BPC section 2084 to participate in a guest rotation in an approved postgraduate training program in California. BPC section 2084, as added by SB 798, section 36, provides several avenues for a medical school to be approved. Consequently, this rulemaking refers to BPC section 2084 to determine whether the medical school is approved, and strikes extraneous language that is no longer part of the review process. Additionally, this proposal amends this subdivision to correct a typographical error, changing “Notwithstanding” to “Notwithstanding.”

Anticipated Benefit: The anticipated benefit to amending 16 CCR section 1320, subdivision (b), is that this regulation will be made consistent with changes to BPC section 2084, as added by SB 798, section 36, that became operative on January 1, 2020, by citing to that section and deleting language irrelevant to determining whether the person graduated from an approved medical school. Further, a typographical error will be corrected. Making these changes will provide clarity to interested parties, including those seeking to participate in guest rotations in postgraduate training programs in California. Clarity and consistency in this regulation supports the Board’s mission of consumer protection through its licensing and enforcement functions.

Rationale: The proposed amendments to 16 CCR section 1320, subdivision (b), are necessary to update what qualifies as an approved medical school to make this section consistent with the statutory changes made by SB 798. Prior law under BPC section 2084 set forth the authority for the Board to approve medical schools. This section was repealed as of January 1, 2020. (SB 798, § 35.)

SB 798, section 36, added a new version of BPC section 2084, which became operative on January 1, 2020. As of that date, the following schools shall be deemed approved by the Board: 1) Medical schools accredited by a national accrediting agency approved by the Board and recognized by the United States Department of Education; 2) Foreign medical schools evaluated by the ECFMG or one of the ECFMG-authorized foreign medical school accreditation agencies and deemed to meet the minimum requirements substantially equivalent to the requirements of medical schools accredited by the LCME, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation; 3) Foreign medical schools listed on the WFME and

FAIMER World Directory of Medical Schools joint directory or the World Directory of Medical Schools; and 4) Medical schools that were previously approved by the Board will continue to be approved for seven years. (BPC, § 2084, as added by SB 798, § 36.) Consequently, this statutory change requires an amendment to 16 CCR section 1320, subdivision (b).

This proposed rulemaking amends 16 CCR section 1320, subdivision (b), to indicate that a person seeking to participate in a guest rotation must have graduated from an approved medical school pursuant to BPC section 2084. The reference to schools approved or recognized by the division as equivalent to an approved medical school will be deleted, as the Board will no longer be engaging in this approval process as of January 1, 2020. This change greatly streamlines the approval process for international medical schools.

Additionally, this proposal further amends 16 CCR section 1320, subdivision (b), to fix a typo in the word “notwithstanding” for accuracy and readability. Accordingly, these proposed changes are necessary to correct a typo and make this regulation consistent with statutory changes that became operative on January 1, 2020.

### **Amend 16 CCR section 1321. Approved Postgraduate Training**

Existing law under 16 CCR section 1321 sets forth what postgraduate training programs are approved to meet the requirements for postgraduate training for individuals applying for a California physician’s and surgeon’s license, the terms of the training, and exceptions to those terms. Existing law also provides that a current list of such programs shall be maintained by the Board, and requires an applicant to have been formally admitted to the postgraduate training program to qualify for licensure. Existing law further requires one continuous year of postgraduate training to be completed in a single program, but provides that training may be interrupted due to illness or hardship.

#### **16 CCR section 1321, subdivision (a)**

Purpose: The purpose of amending 16 CCR section 1321, subdivision (a), is to comply with the statutory changes made by SB 798 to the Board’s postgraduate training and licensing requirements for physicians and surgeons, and to clarify BPC sections 2064.5, 2065, and 2096, as added by SB 798.

This proposal amends 16 CCR section 1321, subdivision (a), by striking the phrase, “meeting the standards of” in reference to postgraduate training programs meeting the standards of specified accreditation entities, and clarifying that postgraduate training programs located in the United States (U.S.) and/or its territories, or in Canada that are accredited by the ACGME or RCPSC, and family medicine postgraduate training in Canada accredited by the CFPC shall be approved for the postgraduate training required for a physician’s and surgeon’s license.

Moreover, this proposal adds reference to BPC section 2064.5, which was added by SB

798, section 25, and deletes references to BPC sections 2066, 2102, and 2103, which were repealed by SB 798, sections 30, 51, and 52, respectively, operative on January 1, 2020.

Finally, this proposal makes additional, non-substantive changes to 16 CCR section 1321, subdivision (a), for clarity by changing “on” to “for” to correct the name of the Accreditation Council for Graduate Medical Education, and makes additional minor, non-substantive changes for clarity and readability.

Anticipated Benefit: The anticipated benefit to amending 16 CCR section 1321, subdivision (a), is that this regulation will be made consistent with changes to BPC sections 2065 and 2096, operative on January 1, 2020, and will improve clarity and transparency to interested parties. This proposal clarifies that postgraduate training programs located in the U.S. and/or its territories, or in Canada that are accredited by the ACGME or RCPSC, and family medicine postgraduate training programs in Canada accredited by the CFPC shall be approved for the postgraduate training required for a physician’s and surgeon’s license. These amendments will assist interested parties in determining what postgraduate training programs are approved by the Board and will assure individuals who participate in approved postgraduate training programs in the U.S., the U.S territories, or in Canada, that the Board accepts such training as meeting the requirements for a physician’s and surgeon’s license. This proposal also clarifies that family medicine postgraduate training programs in Canada accredited by the CFPC (an approved entity per BPC section 2096, subdivision (b), starting January 1, 2020) shall be approved for the postgraduate training required for a physician’s and surgeon’s license. Further, a typographical error to change “on” to “for” will be made to provide the correct name for the Accreditation Council for Graduate Medical Education. Additionally, this proposal adds BPC section 2064.5 and deletes BPC sections 2066, 2102, and 2103 to reflect the statutory changes made by SB 798, and makes minor, non-substantive changes to the language for clarity and readability. Making these changes will conform the regulation to statute and provide clarity to interested parties, including applicants for a California physician’s and surgeon’s license. Clarity and consistency in this regulation supports the Board’s mission of consumer protection through its licensing and enforcement functions.

Rationale: The changes to 16 CCR section 1321, subdivision (a) are necessary to reflect and clarify the statutory changes made by SB 798 specific to what counts as approved postgraduate training meeting the requirements for a physician’s and surgeon’s license.

BPC section 2065 subdivision (d), as added by SB 798, section 29, and amended by SB 1480, section 5, specifies, in pertinent part, that all approved postgraduate training the medical school graduate has successfully completed in the U.S. or Canada shall count toward the 39-month license exemption period. Moreover, BPC section 2096, subdivision (b), as added by SB 798, section 49, indicates that postgraduate training shall be obtained in a postgraduate training program approved by the ACGME, RCPSC, or the CFPC.

This proposed rulemaking amends 16 CCR section 1321, subdivision (a), by striking the phrase, “meeting the standards of” in reference to postgraduate training programs meeting the standards of specified accreditation entities, and clarifying that postgraduate training programs located in the U.S., and/or its territories, or in Canada that are accredited by (i.e., approved by) the ACGME, the RCPSC, or family medicine postgraduate training programs in Canada accredited by the CFPC, shall be approved as meeting the requirements for a physician’s and surgeon’s license. The addition of the requirement that the postgraduate training programs be located in the U.S. or in Canada is necessary to comply with BPC section 2065 subdivision (d), as added by SB 798, section 29, and amended by SB 1480, section 5. The clarification that approved postgraduate training programs located in the U.S. territories shall be approved for the postgraduate training required for licensure is necessary to assure individuals who participate in approved postgraduate training programs in the U.S. territories that such programs shall be approved as meeting the licensing requirements. The Board currently accepts ACGME-approved postgraduate training programs located in the U.S. territories as meeting the postgraduate training requirements for a physician’s and surgeon’s license. Approved postgraduate training programs located in the U.S. territories are not considered international sites, and are accredited by the ACGME. This proposed amendment is necessary to clarify that such programs in the U.S. territories meeting postgraduate training requirements shall be approved as meeting the postgraduate training requirements for licensure.

In order to be approved by the Board as meeting the requirements for a physician’s and surgeon’s license, the postgraduate training program must be approved by an entity specified in BPC section 2096. This proposal strikes the phrase, “meeting the standards of” in reference to postgraduate training programs meeting the standards of specified accreditation entities, and clarifies that postgraduate training programs must be accredited by the specified accreditation entities. This amendment is necessary to be consistent with BPC section 2096, subdivision (b), as it is insufficient for a postgraduate training program to “meet the standards of” a specified accreditation agency; the postgraduate training program must be affirmatively approved by the ACGME, RCPSC, or CFPC, which means the program is accredited.

As of January 1, 2020, pursuant to BPC section 2096, subdivision (b), as added by SB 798, section 49, the Board will accept postgraduate training programs approved by the CFPC, in addition to postgraduate training programs approved by the ACGME and RCPSC. Consequently, this rulemaking is necessary to amend 16 CCR section 1321, subdivision (a), to conform it to statute and clarify that family medicine postgraduate training programs in Canada accredited by the CFPC shall be approved for the postgraduate training required for a physician’s and surgeon’s license. The CFPC is the professional organization that sets the standards for postgraduate training, certification, and continuing education for family physicians in Canada, and accredits family medicine postgraduate training programs in Canada. Consequently, this proposal specifies that family medicine postgraduate training in Canada accredited by the CFPC meets the postgraduate training requirements for licensure as a physician and surgeon. This



qualification appropriately limits approved postgraduate training programs accredited by the CFPC to family medicine postgraduate training programs located in Canada, so that if the CFPC expands its accreditation scope in the future, the Board can review the change before accepting additional programs.

Moreover, this proposal adds a reference to BPC section 2064.5, because this new statutory section became operative on January 1, 2020, and sets forth the requirements for a postgraduate training license. (BPC § 2064.5, as added by SB 798, § 25.) It is necessary to add this section, because an applicant must be enrolled in an approved postgraduate training program to qualify for a postgraduate training license. Accordingly, this addition improves this section's clarity for interested parties.

Additionally, this proposal strikes reference to BPC sections 2066, 2102, and 2103. These deletions are necessary, because, effective January 1, 2020, they were repealed by SB 798 sections 30, 51, and 52, respectively. Consequently, these deletions will make this regulation consistent with statutory changes and improve clarity and accuracy.

Finally, this proposal makes several non-substantive changes to 16 CCR section 1321, subdivision (a), by changing "on" to "for" to provide the correct name for the Accreditation Council for Graduate Medical Education, and making additional minor, non-substantive changes to the language for accuracy and readability.

### **16 CCR section 1321, subdivision (b)**

Purpose: This proposal strikes the language in 16 CCR section 1321, subdivision (b). Existing language in subdivision (b) provides that a current list of approved postgraduate training programs shall be maintained on file in the Sacramento office of the Board. The purpose for striking subdivision (b) is to eliminate this unnecessary and inefficient requirement for the Board to keep a list of approved postgraduate training programs. Instead, interested parties can turn to the ACGME, RCPSC, or CFPC for the most current status of postgraduate training programs.

Anticipated Benefit: The proposed revisions to 16 CCR section 1321, subdivision (b), will eliminate unnecessary language requiring the Board to maintain a list of approved postgraduate training programs. The Board approves postgraduate training programs that are accredited by the ACGME, RCSPC, and CFPC as provided in this subdivision. Consequently, it is more accurate and efficient for individuals to check directly with these entities for the current accreditation status of postgraduate training programs, rather than for the Board to maintain a list of approved programs. The elimination of this language will avoid individuals relying on the Board's list to their detriment when a postgraduate training program's status may have changed prior to the Board receiving notification and updating its list.

Rationale: Existing language in 16 CCR section 1321 subdivision (b) provides that a current list of approved postgraduate training programs shall be maintained on file in the

Sacramento office of the Board. It is necessary to strike this subdivision to remove this unnecessary and inefficient requirement for the Board to maintain a list of approved postgraduate training programs, because interested parties can confirm the status of a postgraduate training program directly with the ACGME, RCPSC, and CFPC. This change is necessary to avoid individuals relying on the Board's list to their detriment when a postgraduate training program's status may have changed prior to the Board receiving notification and updating its list.

### **16 CCR section 1321, subdivision (c)**

Purpose: The purpose of amending 16 CCR section 1321, subdivision (c), is to comply with the statutory changes made by SB 798 to the Board's postgraduate training and licensing requirements for physicians and surgeons. Existing language in subdivision (c) provides that an applicant shall have been formally admitted to and completed any postgraduate training program in order to qualify for a physician's and surgeon's license, and provides a definition for "formally admitted." This proposal will re-letter this subdivision to "(b)" and clarify that an applicant shall have been formally admitted to any approved postgraduate training program to qualify for licensure, and strikes the requirement that the postgraduate training program be "completed," since this is not a requirement in law. This proposal also makes a grammatical correction by changing "programs" to "program" in the last line of this subdivision.

Anticipated Benefit: The anticipated benefit to amending 16 CCR section 1321, subdivision (c), is that this regulation will be made consistent with changes to BPC section 2065, as added by SB 798, section 29, and amended by SB 1480, section 5, operative on January 1, 2020, and will improve clarity and transparency. Interested parties will be alerted that applicants for a physician's and surgeon's license have to be formally admitted to any approved postgraduate training program to qualify for licensure, as admittance into a postgraduate training program that is not approved will not meet the requirements for licensure. Additionally, this section alerts applicants that "informal" admittance into a postgraduate training program, such as through shadowing or another arrangement, will not meet the requirements for licensure. Moreover, the proposed amendment will clarify that a postgraduate training program does not have to be "completed," as this is not required by law, since most postgraduate training programs are much longer than the licensure exemption period. Finally, this proposal improves accuracy and readability by re-lettering this subdivision to "(b)" and making a grammatical correction to change "programs" to "program" in the last line of this subdivision.

Rationale: Existing language in 16 CCR section 1321, subdivision (c), provides that an applicant shall have been formally admitted to and completed any postgraduate training program in order to qualify for a physician's and surgeon's license, and provides a definition for "formally admitted."

This proposal re-letters this subdivision to "(b)," which is necessary to reflect the proposed striking of existing language in 16 CCR section 1321, subdivision (b). Further,

this proposal specifies that an applicant shall have been formally admitted to any approved postgraduate training program to qualify for licensure. This change by adding “approved” as a qualifier is necessary for internal accuracy and consistency, in that only approved postgraduate training will count toward meeting the requirements for licensure.

Additionally, the proposed amendment will clarify that a postgraduate training program does not have to be “completed,” as this is not required by law. (BPC § 2065, sub. (c)-(e), as added by SB 798, § 29, and amended by SB 1480, § 5.) Applicants are required to successfully complete at least 36 months of approved postgraduate training to qualify for licensure, but most postgraduate training programs are much longer than the 36 months of training required to be eligible for licensure, and much longer than the 39-month licensure exemption period. Therefore, it is necessary to strike the requirement that the postgraduate training program be “completed” in order to avoid confusion and make this provision consistent with the law.

Finally, it is necessary to change “programs” to “program” in the last line of this subdivision to make it grammatically correct.

#### **16 CCR section 1321, subdivision (d)**

Purpose: The purpose of amending 16 CCR section 1321, subdivision (d) is to re-letter it to subdivision “(c)” and to eliminate the distinction between graduates of domestic and international medical schools, consistent with the changes made by SB 798 to the postgraduate training and licensing requirements for physicians and surgeons. BPC section 2065, subdivision (e), as added by SB 798, section 29, and amended by SB 1480, section 5, operative on January 1, 2020, requires applicants to successfully complete at least 36 months of approved postgraduate training, which includes successful progression through 24 months in the same program, to be eligible for a physician’s and surgeon’s license. Consequently, this proposal amends this subdivision to make corresponding changes to postgraduate training requirements consistent with SB 798, and to strike language that is now inaccurate or superfluous. These proposed amendments maintain the existing provision that postgraduate training may be interrupted due to illness or hardship.

Anticipated Benefit: The anticipated benefit to amending 16 CCR section 1321, subdivision (d), is that this regulation will be re-lettered to subdivision “(c)” for accuracy and readability in light of the other proposed changes to 16 CCR section 1321, and it will be made consistent with changes to postgraduate training requirements under BPC section 2065, subdivision (e), as added by SB 798, section 29, and amended by SB 1480, section 5, operative on January 1, 2020. Further, the proposed amendments will maintain the provision that postgraduate training may be interrupted due to illness or hardship. These changes will benefit applicants who had to take a leave of absence from training due to illness or other hardship, but returned to complete the required period of training in the same program. Finally, this proposal will strike language that is inconsistent with changes made by SB 798, and will make other non-substantive

deletions to improve readability. Making these changes will provide clarity to interested parties, including those researching California's physician and surgeon licensing requirements. Clarity and consistency in this regulation supports the Board's mission of consumer protection through its licensing and enforcement functions.

Rationale: Existing law under 16 CCR section 1321, subdivision (d), requires applicants to have completed at least one continuous year of postgraduate training in a single program to qualify for licensure as a physician and surgeon. Under existing law, this requirement applies if the applicant graduated from a US or Canadian medical school. This section further indicates that for those applicants who qualify for licensure by completing at least two years of approved postgraduate training, the second year shall be completed in one continuous year in a single program. Under existing law, this requirement applies if the applicant graduated from an international medical school.

Further, existing law under 16 CCR section 1321, subdivision (d), provides that the continuous year required to be completed in a single program for both domestic and international medical school graduates may be interrupted due to illness or hardship.

The proposed changes to this subdivision are necessary to remove the distinction between domestic and international medical school graduates and to make this regulation consistent with the provisions of BPC section 2065, subdivision (e), as added by SB 798, section 29, and amended by SB 1480, section 5, operative on January 1, 2020, which requires at least 36 months of postgraduate training with successful progression through 24 months in the same program, to be eligible for a physician's and surgeon's license.

Specifically, this proposal amends 16 CCR section 1321, subdivision (d), to re-letter it to subdivision "(c)" in light of other changes proposed in this rulemaking. This change is necessary for accuracy and readability. Further, this proposal deletes the reference to the one-year period that may be interrupted due to illness or hardship to indicate instead that the "period required for postgraduate training" may be interrupted due to illness or hardship. This change is necessary to make this regulation consistent with the provisions of BPC section 2065, subdivision (e), operative on January 1, 2020, and to further permit the 24 continuous months in a single program required for postgraduate training to be interrupted due to illness or hardship. These changes are necessary to allow applicants to qualify for licensure in cases where they have had to take a leave of absence from training due to illness or other hardship, but returned to complete the required period of training in the same program. In most cases, the 24 months will be continuous months, but by permitting the training to be interrupted due to illness or hardship, the regulation properly aligns with BPC section 2065, which does not require the 24 months to be continuous, as long as the trainee successfully progresses in the same program.

Additionally, this proposal deletes the words "in cases," so that the regulation reads, in pertinent part, "The period required for postgraduate training may be interrupted due to illness or hardship." The words "in cases" are unnecessary, and the sentence reads

better without them. Finally, this proposal deletes the last two sentences of the regulation, because effective January 1, 2020, they are not necessary nor consistent with BPC section 2065, as added by SB 798, section 29, and amended by SB 1480, section 5, because there is no longer a distinction between domestic and international medical school graduates.

### **Underlying Data**

1. Senate Bill 798 (Hill, Chapter 775)
2. Senate Bill 1480 (Hill, Chapter 571)
3. Staff report for the August 9, 2019 Board meeting regarding the need to amend 16 CCR sections 1320 and 1321 (agenda item 24)
4. Partial minutes from the August 9, 2019 Board meeting regarding the need to amend 16 CCR sections 1320 and 1321 (agenda item 24)

### **Business Impact**

The Board has made the initial determination that the amendments to 16 CCR sections 1320 and 1321 will not have a significant adverse economic impact on businesses. This initial determination is based on the fact that the proposed amendments to 16 CCR sections 1320 and 1321 will simply update the language in this section for consistency with the statutory changes that became operative on January 1, 2020, per SB 798 to avoid confusion regarding postgraduate training requirements to be eligible for a California physician's and surgeon's license.

### **Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the amendments to 16 CCR sections 1320 and 1321 will simply update the language in these sections for consistency with the statutory changes that became operative on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.
- It will not create new business or eliminate existing businesses within the State of California because the amendments to 16 CCR sections 1320 and 1321 will simply update the language in these sections for consistency with the statutory changes that became operative on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.

- It will not affect the expansion of businesses currently doing business within the State of California because the amendments to 16 CCR sections 1320 and 1321 will simply update the language in these sections for consistency with the statutory changes that became operative on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.
- This regulatory proposal does benefit the health and welfare of California residents because the amendments to 16 CCR sections 1320 and 1321 will update the language in these sections for consistency with statutory changes that became effective on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.
- This regulatory proposal does not affect worker safety because the amendments to 16 CCR sections 1320 and 1321 do not address worker safety. These proposed amendments will simply update the language in these sections for consistency with the statutory changes that became operative on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.
- This regulatory proposal does not affect the state's environment because the amendments to 16 CCR sections 1320 and 1321 do not address the state's environment. These proposed amendments will simply update the language in these sections for consistency with the statutory changes that became operative on January 1, 2020, per SB 798, to avoid confusion regarding postgraduate training and licensing requirements to be eligible for a California physician's and surgeon's license.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reason(s) for rejection or acceptance:

1. Do not seek a regulatory change. This alternative was rejected because 16 CCR sections 1320 and 1321 would be inconsistent with statutory amendments that became effective on January 1, 2020, per SB 798, and would cause confusion regarding postgraduate training and licensing requirements for physicians and surgeons in California.
2. Adopt the proposed amendments to 16 CCR sections 1320 and 1321. This alternative was accepted because the amendments will update the language to reflect statutory changes that became effective on January 1, 2020, per SB 798, and will avoid confusion regarding postgraduate training and licensing requirements for physicians and surgeons in California.