

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: September 21, 2018
ATTENTION: Members, Medical Board of California (Board)
SUBJECT: Proposed Changes to Regulations Regarding
Postgraduate Training, Clinical Training and Medical
Schools
STAFF CONTACT: April Alameda, Chief of Licensing

REQUESTED ACTION:

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

- 1) Preparing 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 Office of Administrative Law (OAL) to formally notice the proposed regulatory language and schedule a hearing on the rulemaking to:
 - a. Amend Section 1320 of Article 6, Chapter 1, Division 13, of Title 16 of the California Code of Regulations (CCR);
 - b. Amend Section 1321 of Article 6, Chapter 1, Division 13, of Title 16 of the CCR.
- 3) Allow staff to make non-substantive changes to the language during the rulemaking process, as needed.

BACKGROUND:

Senate Bill (SB) 798 (Hill, Chapter 775) made revisions related to the postgraduate training/licensing requirements effective January 1, 2020. Specifically, the law modified the minimum requirements for postgraduate training to require successful completion of 36 months of a Board-approved postgraduate training program for all applicants, regardless of whether the medical school attended was domestic or international. The law also requires residents participating in an approved postgraduate training program in California to apply for and obtain a Postgraduate Training License (PTL) from the Board within 180 days of enrollment in order to continue in that program.

In addition, SB 798 made changes to the process for recognizing international medical schools. Beginning January 1, 2020, the Board will recognize an international medical

school as meeting the educational requirements for a PTL/licensure, if the school is listed on the World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education (FAIMER) and Research World Directory of Medical Schools joint directory or the World Directory of Medical Schools.

Once these new postgraduate training/licensing and school approval statutes go into effect in 2020, Board staff will be able to submit a request to OAL under 1 CCR section 100 to repeal the regulations that are no longer applicable.

Board staff is initiating the approval process to amend, 16 CCR sections 1320 and 1321 now so that the changes to these sections will be effective as of January 1, 2020.

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 certificate under BPC section 2065, plus the three month grace period for obtaining the physician's and surgeon's certificate, once the change becomes effective in 2020. 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 a reference to 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. The Board has already approved some changes to this section, and a rulemaking package is currently making its way through DCA's and Agency's review process. With the change under SB 798, however, additional amendments to this section will have to be made. If the process for approving the proposed amendments currently under review takes too long, then the Board will have to withdraw that rulemaking package, or provide a second 45-day comment period, to include the additional proposed amendments to ensure the changes will become effective by January 1, 2020.

Accordingly, in addition to the changes the Board has already approved, CCR section 1321 will be amended to ensure the language is consistent with the requirement that applicants for a physician's and surgeon's certificate complete 36 months of Board-approved postgraduate training, with at least 24 continuous months in a single program.

The proposed regulatory text is attached for review and consideration.

STAFF RECOMMENDATION:

Staff recommends the Board authorize staff to proceed with preparing the necessary regulatory documents to submit to DCA and Agency for approval, prior to sending the documents to OAL, to formally notice the proposed amendments, and to schedule a regulatory hearing at a future Board meeting. Staff further recommends the Board authorize staff to make any non-substantive changes to the proposed language during the rulemaking process, as needed.

SPECIFIC LANGUAGE AND PROPOSED AMENDMENTS AND DELETIONS

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

Legend

Underlined Indicates proposed additions to the existing regulation

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

1320. Postgraduate Training Exemption Period; Guest Rotations.

(a) Except as otherwise provided in this section, all approved postgraduate training 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 training 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 an approved medical school pursuant to Section 2084 of the code ~~that has either been approved 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 2065, ~~2066~~, 2096, ~~2102, 2103~~, 2135 and 2428, Business and Professions Code.

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

Legend

Underlined Indicates proposed additions to the existing regulation already approved by the Board

~~Strikeout~~ Indicates proposed deletions to the existing regulation already approved by the Board.

Double Underlined Indicates additional proposed additions to the existing regulation to become effective on January 1, 2020.

~~Double Strikeout~~ Indicates additional proposed deletions to the existing regulation to become effective on January 1, 2020.

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 for Graduate Medical Education, or the Royal College of Physicians and Surgeons of Canada, and 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.~~ Postgraduate training programs located in the United States and/or its territories accredited by the American Osteopathic Association that have received initial/pre-accreditation status by the Accreditation Council for Graduate Medical Education shall be approved for the postgraduate training specified in Sections ~~2064.5, 2065, ~~2066,~~ and 2096, ~~2102, and 2103~~~~ of the code.

(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) An applicant shall have completed at least 24 ~~one~~ continuous ~~year's~~ months out of the required 36 months of approved postgraduate training in a single program in order to qualify for licensure as a physician and surgeon. The ~~one-year period for required 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.