

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 7, 2010
ATTENTION: Medical Board of California
SUBJECT: Regulation Governing Abandoned Licensing Applications
STAFF CONTACT: Deborah Pellegrini, Chief

REQUESTED ACTION:

Recommend the Licensing Committee forward to the Board the recommendation to direct staff to schedule a public hearing at the July 29-30, 2010 Board meeting to review proposed amendments to Section 1306 of Title 16, California Code of Regulations.

STAFF RECOMMENDATION:

Staff recommends that the Committee approve the amendments indicated on the attached copy of Section 1306, along with any edits or additional provisions that the Committee may suggest for inclusion in the regulation.

BACKGROUND:

At the Licensing Committee's meeting on January 28, 2010, the Committee members directed staff to draft amendments to Section 1306 of Title 16, California Code of Regulations. In its current form, Section 1306 does not clarify the Board's or the licensing applicants' rights and responsibilities in the application process. The Board needs realistic data on the number of pending applications in order to assign resources effectively. Staff's caseloads are inflated with hundreds of pending applications effectively abandoned by physicians who are not required to notify the Board if the application is abandoned and who will never complete their California applications for the following reasons:

- 1) They accepted employment or training opportunities in other states or countries;
- 2) Staff notified them of a deficiency in their training, written examination and/or the need to undergo an evaluation, and they have not remedied the deficiency or do not intend to remedy the deficiency;
- 3) Staff issued an applicant a Postgraduate Training Authorization Letter (PTAL) but the applicant was not accepted into a training program after several attempts or the applicant accepted a training program in another state.

Following is a breakdown of the number of applications pending as of April 6, 2010:

Age of Pending Applications	US	IMG	PTAL	Total Pending Applications
5+ Years	44	327	68	439
4 - 5 Years	45	299	147	491
3 - 4 Years	68	106	626	800
2 - 3 Years	119	207	915	1241
1 - 2 Years	283	246	1030	1559
0 - 1 Year	1968	567	1179	3714
	2527	1752	3965	Total = *8244

*1,528 PTALs were recently issued and flagged; therefore, total number of pending applications is 6,716.

Without amendments to Section 1306, staff is unable to appropriately close files. This creates additional workload as staff must re-review these applications annually, determine if the applicant’s status has changed and attempt to contact applicants, who may have moved several times, to ask if they intend to pursue California licensure in the near future or would prefer staff to close their applications.

The Licensing Program needs to purge applications that have truly been abandoned. On the other hand, applicants need reassurance that the Board will retain their applications while they work diligently toward licensure. But, they need a clear definition of their responsibilities to communicate with the Board and proceed through the licensing process in a timely fashion.

ANALYSIS:

Staff and legal counsel developed the attached amendments to Section 1306 for the Committee’s review. The attached amendments attempt to balance each party’s rights and responsibilities. Subsections (c) and (d) notify applicants of their responsibility to timely report any changes of address to the Board and update their applications as directed, in order to prevent misdirected Board communications. Arcane terminology is deleted, and the amendments describe the most common circumstances for which abandonment is appropriate, including failure to progress toward licensure within a reasonable time. Failure to progress is defined as no response when the following occurs:

- 1) The Board notified the applicant that required documentation is missing from his or her application (ex., transcripts, written examination scores, postgraduate training verification forms).
- 2) The Board notified the applicant to undergo a psychiatric or medical evaluation or a clinical skills assessment to demonstrate his or her ability to practice medicine safely.

- 3) The Board notified the applicant that he or she would be issued a license after he/she submits the initial licensing fee.
- 4) The applicant applied for licensure without having passed United States Medical Licensing Examination (USMLE) Step 3 or the applicant notifies the Board that he or she took and failed the examination.
- 5) The Board notified the applicant of the requirement to remedy an undergraduate clinical rotation deficiency.
- 6) The applicant has not submitted proof of enrollment in an accredited postgraduate training program or he/she began postgraduate training, but has been unable to successfully complete the number of years of training required for licensure.

Applicants are provided one year to notify the Board of their intentions to satisfy any deficiencies in their application, including but not limited to the deficiencies listed above. Staff selected one year as the standard active period for applications because most applicants are able to fulfill requirements within a one-year period. However, the Board will maintain their application in active status for more than one year as long as applicants are taking reasonable steps to progress toward licensure, such as submitting required documents and fees, requesting additional time to undergo an evaluation, and retaking the USMLE. If applicants notify the Board that they no longer wish to proceed to licensure in California, the Board will close their applications.

FISCAL CONSIDERATIONS:

Applicants will be required to submit a new application review fee, in effect at the time they submit a new application, after they have requested the Board to close a previous application, or, if the Board deems that the previous application has been abandoned for failure to provide licensure requirements.

Specific Language of Proposed Changes
Draft—3/29/2010

Amend section 1306 in Article 2 of Chapter 1 of Division 13, Title 16 Cal.Code Regs. to read as follows:

1306. Applications and Refund of Fees.

(a) An application shall be ~~denied without prejudice when~~ deemed abandoned if an applicant ~~does not exercise due diligence in the completion of~~ fails to complete the application. ~~“Failure to complete the application” within one year constitutes failure to exercise due diligence.~~ means that the applicant:

(1) Did not submit all required supporting documents and information within 365 days from the date of the most recent written notification from the board of the documents needed to complete the application; or

(2) Unless otherwise authorized by the board, did not undergo a required evaluation within six months from the date of written notification from the board of the need to undergo an evaluation; or

(3) Failed to pay the required license fees within 365 days of notification that his/her application was otherwise complete; or

(4) Failed to either pass or re-take Step 3 of the USMLE within one year from the date of written notification by the board; or

(5) Failed to remedy clinical rotation deficiencies within one year from the date of notification by the board; or

(6) Failed to show progress toward licensure, as demonstrated by proof of acceptance of enrollment in an approved postgraduate training program within three

year from the date of application and completion within three years thereafter of the training required for licensure.

(b) An application submitted subsequent to the abandonment of a former application shall be treated as a new application, and the applicant must meet all licensure requirements in effect at the time of the subsequent application.

(c) An applicant shall report any change of address to the board within 30 working days.

(d) An applicant shall update his or her application upon request of the board, but not more frequently than once every 365 days.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2082, 2141 and 2435, Business and Professions Code.