

## TITLE 16. Medical Board of California

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as the "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Long Beach Memorial Hospital Miller Children's Hospital, 2801 Atlantic Avenue, Long Beach, California 90806, at 9:00 a.m., November 5, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on October 25, 2010 or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 2088 and 2441 of said Code, the Board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Sections 1315.50, 1315.53, and 1315.55 in Article 4.5 in Chapter 1 of Division 13 of Title 16, Cal. Code Regs, relating to the Limited Practice License.

The Limited Practice License does not exist in current regulation.

This proposal sets forth the requirements and criteria for the limited practice license. Legislation, AB 501, effective January 1, 2010, authorizes the Licensing Program to issue a limited practice 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. Parallel language was also prepared to ensure the limited practice license issuance criteria is consistent with the criteria for the current disabled status.

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will have a small impact on the creation of jobs given that it will allow a physician who may not be eligible for a full and unrestricted physician's and surgeon's medical license due to a disability the opportunity to apply for a limited practice license and practice medicine in California.

The Board has determined that this regulatory proposal will not have any impact on the creation of new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice. Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in the Notice under Contact Person or by accessing the Board's website: [http://medbd.ca.gov/laws/regulations\\_proposed.html](http://medbd.ca.gov/laws/regulations_proposed.html).

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website:

[http://www.medbd.ca.gov/laws/regulations\\_proposed.html](http://www.medbd.ca.gov/laws/regulations_proposed.html).

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the Board's website:

[http://www.medbd.ca.gov/laws/regulations\\_proposed.html](http://www.medbd.ca.gov/laws/regulations_proposed.html).

## CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Fayne Boyd, Licensing Manager Medical Board of California
Address:	2005 Evergreen Street, Suite 1200 Sacramento, CA 95815
Telephone No.:	(916) 274-5983
Fax No.:	(916) 263-2487
E-Mail Address:	<a href="mailto:regulations@mbc.ca.gov">regulations@mbc.ca.gov</a>

The backup contact person is:

Name:	Kevin A. Schunke Medical Board of California
Address:	2005 Evergreen Street, Suite 1200 Sacramento, CA 95815
Telephone No.:	(916) 263-2389
Fax No.:	(916) 263-2387
E-Mail Address:	<a href="mailto:regulations@mbc.ca.gov">regulations@mbc.ca.gov</a>

Website Access : Materials regarding this proposal can be found at:  
[http://www.medbd.ca.gov/laws/regulations\\_proposed.html](http://www.medbd.ca.gov/laws/regulations_proposed.html).

**MEDICAL BOARD OF CALIFORNIA**  
**INITIAL STATEMENT OF REASONS**

Hearing Date: November 5, 2010

Subject Matter of Proposed Regulations: Limited Practice License

Sections Affected: Adopt Sections 1315.50, 1315.53, and 1315.55 in Article 4.5, of Chapter 1, Division 13, of Title 16.

Introduction

Legislation, AB 501, effective January 1, 2010, authorizes the Licensing Program to issue a limited practice license to an applicant who is otherwise eligible for a medical license in California, but is unable to practice all aspects of medicine safely due to a disability. Regulatory proposal sets forth the requirements and criteria for a limited practice license. In preparing the regulatory language, staff also considered current licensees who wish to go into this status due to a disability affecting their ability to practice some aspects of medicine safely. Parallel language was also prepared to ensure the limited practice license is consistent with the criteria for the current disability license.

On May 26, 2010, the Medical Board of California (Board) held an Interested Parties Meeting to review and discuss the proposed regulatory language. Based on feedback received at the meeting and in writing, suggestions were incorporated into the revised limited practice license proposed regulations.

Specific Purpose of each adoption:

Adopt Section 1315.50 - This section defines the requirement for an independent clinical evaluation.

Factual Basis/Rationale:

- This section establishes the requirements for an applicant seeking a limited practice license and a current licensee who seeks a disabled license.
- The applicant is aware of his/her limitations and is choosing to apply for the limited practice license.
- Consumer protection is the highest priority of the Board; therefore, an independent clinical evaluation is necessary to ensure that an applicant is eligible for a limited practice license and can practice medicine safely under that license.
- The report submitted to the Board will allow the tailoring of the license to the specific circumstances of the applicant or licensee.

Adopt Section 1315.53 – This section defines the criteria for the reviewing physician conducting an independent clinical evaluation.



- The Board determined that the independent clinical evaluation should be performed by a physician who specializes in the diagnosis and/or treatment of the disability of the same nature as that of the applicant. This benefits the applicants by allowing them to research and choose a physician that specializes in the area of their disability. In addition, the Board is assured that the physician conducting the evaluation is specialized in the area of the disability and the recommendations made regarding the limits of practice are most appropriate for the applicant's needs.
- The Board is relying on an outside independent evaluation from a qualified California physician. To ensure an impartial review, the Board requires that the independent clinical evaluation be performed by a physician who has no personal, professional, or social relationship with the applicant.
- The Board determined that the physician who completes the independent clinical evaluation shall possess a current California license with no history of discipline. To ensure public protection, the independent clinical evaluation shall be conducted by a physician that has met all of the requirements to practice medicine in California and is free from any limitations.

Amend Section 1315.55 - This section defines the required contents of the independent clinical evaluation report.

**Factual Basis/Rationale:**

- The Board determined that in order to issue a limited practice license, the independent clinical evaluation would need to include sufficient information to allow the Board to make a determination of the applicant's ability to practice medicine safely. This section describes the contents of the report to be prepared by the evaluating physician and submitted by the applicant. By requiring that the evaluation be on the evaluating physician's letterhead and signed under penalty of perjury will provide the Board with confidence that the evaluation is bona fide. The required assessment of the applicant's or licensee's disability, his or her treatment protocols, and the suggested practice limitations will provide the Board with a mechanism to tailor the limitations of the license to the particular situation of the applicant or licensee. Finally, the sixty-day time limit ensures that the evaluation is recent enough to provide the Board with current information.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

This regulation only impacts persons applying to the Medical Board for a limited practice license.

The Board does not license businesses, the Board licenses individuals; therefore, the proposed regulation has no business or economic impact.

#### Specific Technologies or Equipment

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

#### Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth are the alternatives which were considered and the reasons each alternative was rejected:

- If the Board does not have a regulation allowing an applicant to apply for a limited practice license, applicants with disabilities that impact their ability to practice some aspect of medicine safely might continue to be ineligible for licensure in California, as the Board issues only a full and unrestricted medical license.

Applicants who have previously applied were unable to be licensed due to our lack of a limited practice license. Therefore, they were unable to be employed as a physician to provide care to patients, or work in underserved areas, or provide voluntary services in California.

**MEDICAL BOARD OF CALIFORNIA**  
**Limited Practice License**  
**Specific Language**

(1) Add Article 4.5 in Chapter 1 of Division 13 of Title 16, Cal.Code Regs, to read as follows:

1315.50. Requirement for Independent Clinical Evaluation

(a) This section applies both to applicants for an initial license and licensees who seek a limited practice license pursuant to Section 2441 of the code.

(b) An applicant for a limited practice license shall obtain and submit to the board with his or her application the report of an independent clinical evaluation that meets the requirements of this Article regarding the applicant's ability to practice medicine safely.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2088 and 2441, Business and Professions Code.

1315.53. Criteria for Reviewing Physician

The independent clinical evaluation shall be performed by a physician who specializes in the diagnosis and/or treatment of disabilities of the same nature as that of the applicant, who is familiar with the applicant's areas of medical practice, and who has no personal, professional, business, or social relationship with the applicant. The term "professional relationship" includes but is not limited to, a current or previous physician-patient relationship with the applicant. The reviewing physician shall possess a current valid California license with no history of discipline.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2088 and 2441, Business and Professions Code.

1315.55. Required Contents of Report.

(a) A report submitted pursuant to this Article shall:

(1) Be on the reviewing physician's letterhead, dated, and signed under penalty of perjury, and shall contain the original signature of the reviewing physician.

(2) Describe how the reviewer meets the criteria set forth in section 1315.53.

(3) Include the applicant's name and the diagnosis or description of the applicant's disability.

(4) Describe all recommended practice limitations and how those limitations permit the applicant to practice medicine safely.

(5) Provide suggested intervals between evaluations, if the disability is caused by a disease that will progress or fluctuate in severity.

(6) Indicate whether the evaluation included a review of the applicant's medical records related to the disability.

(7) Describe the current treatment protocol and the applicant's compliance with that treatment protocol, if appropriate for the type of disability.

(b) The evaluation shall have occurred not more than sixty (60) days from the date on which the application was filed with the board.

NOTE: Authority cited: Sections 2018, Business and Professions Code.  
Reference: Sections 2088 and 2441, Business and Professions Code.





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Medical Board of California  
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AGENDA ITEM 18

# Memorandum

Date: October 28, 2010  
To: Board Members  
From: Fayne Boyd, Licensing Manager  
Subject: Hearings on Proposed Regulations Hearings – July 29, 2010

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At the Board meeting on July 29, 2010, a hearing has been scheduled to consider proposed regulations. The public comment period for this hearing closed at 5:00 pm on October 25, 2010.

**Limited Practice License, Agenda Item 18:** No public comments were received.